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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 August 1990, at 10.30 a.m.

Temporary Chairman: Mr. YIMER

Chairman: Mr. TURK

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.90-12590/2406B

The meeting was called to order at 11.25 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN welcomed all participants to the forty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and congratulated the members of the Sub-Commission who had been elected for the first time or re-elected.

2. As Chairman of the Sub-Commission at its forty-first session, he had presented the Sub-Commission's report on that session (E/CN.4/Sub.2/1989/58) to the Commission at its forty-sixth session. His report had covered the methods of work of the Sub-Commission, its studies and standard-setting activities, the activities of the special rapporteurs, new developments in the field of human rights and the resolutions and decisions of the Sub-Commission.

3. The Commission had given serious consideration to the report of the Sub-Commission: at least 20 members of the Commission, and an equal number of observers and non-governmental organizations had commented on the report, which testified to the importance attached by the Commission to the work of the Sub-Commission. None the less, frank and constructive criticism had been voiced relating, in particular, to the proliferation of items on the agenda of the Sub-Commission, the consideration of political issues discussed elsewhere in the United Nations system, the tendency of the Sub-Commission to become a "mini-commission", the adoption of resolutions on situations already dealt with by the Commission under item 12 of its agenda, the proliferation of studies on too many subjects, the duplication of the work of the Sub-Commission and the Commission whereas the two bodies should complement each other, the proliferation of resolutions on country situations. Resolution 190/94 adopted by the Commission on the work of the Sub-Commission clearly reflected those criticisms. He drew particular attention to the eleventh preambular paragraph, in which the Commission noted the growing number of resolutions and decisions adopted by the Sub-Commission, and to operative paragraph 8 in which the Sub-Commission was invited to bear in mind that draft resolutions should be thoroughly discussed in the Sub-Commission and should be consistent with its role as a body of independent experts.

4. The Commission's debate did not allow it to be said that the Commission was entirely satisfied with the way in which the Sub-Commission had discharged its functions, and the Sub-Commission should ponder that matter as it embarked upon its forty-second session. He was confident that the members of the Sub-Commission would give his successor the same co-operation that he had enjoyed the previous year.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

5. Mr. MARTENSON (Under-Secretary-General for Human Rights), after having welcomed participants to the Sub-Commission's forty-second session, said that for over 40 years the Sub-Commission had been at the heart of United Nations activities in the field of human rights. It had contributed to the preparation of many instruments on human rights and numerous major studies, and had participated in the development of most of the existing procedures for dealing with human rights violations. In brief, it was a "think tank", and the independence of the experts of which it was composed had contributed most to its achievements.

6. Respect for human rights had been seen from the earliest days of the United Nations as a key element in preserving international peace. The struggle for equality and non-discrimination were dominant themes in the Charter of the United Nations and in human rights instruments. Those two principles were applicable to States and to individuals alike, and the Sub-Commission was one of the bodies that had made the greatest contribution to promote them.

7. At its present session the Sub-Commission had more items on its agenda than ever before, a phenomenon which showed the extent to which human rights concerns had come to permeate almost every sphere of human life. As all were aware, the prevention of discrimination and the protection of minorities were its major tasks. The activities of the Working Group on Contemporary Forms of Slavery were also designed to foster de facto equality of treatment.

8. As far as apartheid was concerned, recent events in southern Africa, and particularly the steps taken by the South African authorities and the release of Mr. Nelson Mandela (whose imprisonment had been of continuing concern to the Sub-Commission over the years) gave ground for optimism. None the less apartheid had not yet been entirely eradicated, and nor had discrimination in other parts of the world. The international community should continue to give the highest priority to programmes combating racism and apartheid and take all necessary measures to give effect to the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. It should continue to be guided by the Declaration on Apartheid and its Destructive Consequences in southern Africa, adopted by the sixteenth special session of the General Assembly.

9. At its present session, the Sub-Commission would also deal with the protection of the human rights of individuals when they were faced with the power of the State exercised through the judicial system, or by the police or prison authority. That area would gain increased importance because the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was to take place from 27 August to 7 September in Havana. That Congress was expected to finalize and recommend for adoption by the legislation bodies of the United Nations a number of draft model treaties, standards and guidelines dealing, inter alia, with extradition procedures, the use of force and firearms by law enforcement officials, non-custodial measures, the role of lawyers and prosecutors, and juvenile delinquency, which were also subjects of great concern to the Sub-Commission. Indeed, the Sub-Commission had contributed to the preparation of the Congress through its Working Group on Detention.

10. In the area of standard setting, during the last two years the Sub-Commission had completed consideration of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, which had been adopted by the General Assembly at its forty-fourth session, and a draft body of principles for the protection of mentally-ill persons, now being considered by the Commission. That year, the Sub-Commission would continue to elaborate a draft declaration on indigenous rights and begin consideration of a draft declaration on the right to leave any country, including one's own and to return to one's own country. In addition the draft declaration against disappearances would receive the close consideration of the Working Group on Detention.

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11. There was universal agreement that one of the greatest achievements of the United Nations in the field of human rights was the existence today of an international code of human rights regulating the way in which the State should treat the individual. The complaints received by the Sub-Commission from individuals and groups in all parts of the world, demanding that their rights and freedoms be respected, invoked those norms which governments had undertaken to respect by ratifying the relevant instruments.

12. Today, 130 States were parties to the International Convention on the Elimination of All Forms of Racial Discrimination, 97 had ratified or acceded to the International Covenant on Economic, Social and Cultural Rights, 92 States to the International Covenant on Political and Civil Rights and 50 to its Optional Protocol. Moreover, 52 States had become parties to the Convention against Torture. Under those instruments, Governments submitted their laws and practices to the scrutiny of the international community which verified their consistency with internationally recognized norms. That was a remarkable and indeed revolutionary innovation.

13. During the last 12 months the Communications Section of the Centre for Human Rights had received 300,000 communications, each expressing the hope of an individual. Those communications constituted another, perhaps more immediate, monitoring system, and, under Economic and Social Council resolution 1503 (XLVIII), the Sub-Commission had a specific mandate and a high responsibility to scrutinize situations of serious violations of human rights which merited urgent action by the Commission.

14. The Centre for Human Rights was also continuing its efforts to create even more effective international mechanisms, while continuing to develop national infrastructures within the framework of its advisory services and technical assistance to governments. It organized courses, workshops and seminars in various regions for judges, police officers, prison administrators and military personnel.

15. It had held a training course on implementation machinery in Lima and another in Buenos Aires in October 1989; in November/December 1989, a training course had been organized in Moscow on international norms and standards in the field of human rights and in May 1990 a regional workshop had been held in Manila on the same subject. Recently, in July 1990, the Centre had organized two national training courses on human rights and the implementation of justice, in Montevideo and Asunción. Other workshops were planned, including one in Kiev on international standards in September, and another in Lisbon in October on the teaching of human rights. An international seminar on the political, historical, economic, social and cultural factors contributing to racism and apartheid would also be held in October in Geneva. Shortly afterwards a regional seminar was to be held in Cairo on the administration of justice and human rights. The Voluntary Fund for Technical Assistance and Advisory Services was giving considerable support to the endeavours of the Centre for Human Rights in that field.

16. However, efforts were still needed in the areas of education and dissemination of information, for it was by those means that the universal culture of human rights could be built up in the long term. For that reason the General Assembly at its forty-third session had launched a World Public Information Campaign on Human Rights and at its forthcoming session would consider the possibility of convening a world conference on human rights.

17. For its part, the Centre was trying to spread the human rights message and to make the best possible use of its finite personnel and financial resources to respond to the unprecedented expansion of United Nations activities in the field of human rights, especially at a time when it had been untrusted with monitoring the implementation of an even larger number of international instruments, not to speak of the growing requirements in the field of advisory services and technical assistance, information and education. In order to tackle the increased workload, the Centre had been restructured in order to ensure greater flexibility and mobility in the utilization of existing staff and thereby maximize efficiency. That new structure conformed with United Nations guidelines and reflected the interrelationship between the three main functions of the United Nations in the field of human rights: legislation (standard setting), implementation of standards, technical assistance and information/education. Needless to say, the constraints of that new structure were very great and the Centre was absolutely not in a position to accept any new activities from within existing resources.

18. Recognizing the Centre's increased workload, the Economic and Social Council had adopted resolution 1990/47 by which it requested the Secretary-General to make provision in the proposed programme budget for the biennium 1992-1993 for resources for long-term solutions to the problems expounded by the Centre for Human Rights and requested him to submit to the General Assembly, at its forty-fifth session, a brief report on actions taken in 1990 and those planned for 1991, as interim solutions.

19. The contribution of the United Nations to the general improvement in the international atmosphere could not be denied. The independence of Namibia and the development of the situation in Europe were illustrations of that trend. Despite those encouraging events, it must not be forgotten that the failure to ensure respect for cultural, linguistic and religious rights, the frustration of hope for economic and social progress and the cancer of exclusion and racism had led in the past to cataclysmic consequences. It could not be denied that violations, often of tragic proportions, were taking place in many regions of the world. Thus any expression of satisfaction at success had to be accompanied by reflection on the areas where there was need for improvement. The problems that occurred were dealt with during the sessions of the human rights bodies, but there was still no comprehensive machinery for dealing with every urgent problem as it arose.

20. The greatest challenge facing the international community was undoubtedly that of the application of the international rules and standards that had already been proclaimed, and the problems encountered in that regard needed to be more sharply focused. That was already being done by the Sub-Commission when it considered problems relating to the enjoyment of human rights by such groups as disabled persons, indigenous populations, women, children and the extremely poor. On the other hand, a way had to be found of inducing Governments to act more firmly to promote human rights, for the last and ultimately decisive role fell to Governments. There must be no hesitation in using more effectively available mechanisms to deal with violations of human rights.

21. The interdependence of those rights with many of the other activities carried out at national and international level had become clear. It had become evident that peace and human rights were interdependent and that economic and social development went hand in hand with respect for human rights. The Sub-Commission's concern with the human rights situation of vulnerable groups was closely linked to that issue. The human rights of minorities and of persons belonging to them required urgent action by the international community, and the decision taken by the Sub-Commission to explore more practical approaches to the protection of those rights and to the solution of the problem of persons belonging to vulnerable groups was a step forward in the prevention of discrimination and the protection of human rights of those persons.

22. It was clear from the list of documents before the Sub-Commission that human rights did not exist in isolation from other aspects of today's world; that was why the Centre for Human Rights had considerably enhanced its co-operation with other United Nations programmes and agencies such as UNDP, WHO and ILO. The Commission on Human Rights in its resolution 1990/64 had confirmed the Sub-Commission's mandate and requested it to concentrate its attention on those specific human rights issues on which it could make a distinctive contribution. At the present session, the Sub-Commission would establish a sessional working group to study how it could best fulfil that mandate.

23. Dealing effectively with allegations of violations was one of the most difficult responsibilities of the United Nations in the field of human rights, and might well be the most important. The national interests at stake often made action difficult. Decisive action could nevertheless help to bring an end to suffering and ultimately prevent international conflict and the Sub-Commission had a most important role to play and an ever-growing responsibility. In the new context of improved prospects for the enjoyment of human rights in many parts of the world, thought should perhaps be given to the way in which the United Nations could best respond to those new conditions. The Sub-Commission might also consider whether there were issues that might have been overlooked in the past and reassess the way in which the machinery of the United Nations could best promote respect for human rights. Those were only two of the general questions that might be placed in the framework of the consideration to be given to a possible world conference on human rights, on which the Secretary-General would be reporting to the General Assembly at its next session. For his part, he would welcome the views and suggestions of the members of the Sub-Commission in that regard.

24. In a speech at McGill University in May 1990, the Secretary-General had stated that in the field of human rights the United Nations should endeavour to enable people to participate more fully in decisions affecting their own lives. He had referred in that connection to the Sub-Commission taking the view that it could play a key role in enlarging the participation of individuals in United Nations human rights activities. The Secretary-General had also considered it important to find ways of assisting people in developing countries to establish or strengthen their own non-governmental organizations.

25. In conclusion, he said that the Sub-Commission, which had a very heavy workload, could as always count on the full co-operation of the Secretariat of the Centre for Human Rights and of the conference services.

26. Mrs. WARZAZI, speaking on a point of order, welcomed the fact that the text of Mr. Martenson's outstanding speech had been distributed and hoped that in view of its importance the text of Mr. Yimer's statement would also be distributed.

27. The TEMPORARY CHAIRMAN said that Mrs. Warzazi's request would be taken into account.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

28. The TEMPORARY CHAIRMAN invited the Sub-Commission to elect its Chairman for the forty-second session.

29. Mrs. DAES nominated Mr. Türk for the office of Chairman of the Sub-Commission for its forty-second session.

30. Mr. HATANO, speaking on behalf of the Asian experts, and supported by Mr. KHALIFA and Mr. DIACONU, the latter speaking on behalf of the experts from the Eastern European countries, seconded the nomination.

31. Mr. Türk was elected Chairman by acclamation.

32. Mr. Türk took the Chair.

33. The CHAIRMAN, having welcomed all participants and in particular the newly-elected members of the Sub-Commission who, at a time of changing ideas, needs and situations throughout the world should guarantee the necessary synthesis between continuity and change, said that he was deeply honoured to have been elected Chairman of the Sub-Commission for its forty-second session.

34. The Sub-Commission could be proud of the experience, knowledge, wisdom, personal courage and independence of its members, which had enabled it to play a significant role in the field of human rights. On the other hand, a look at the annotated agenda for the current session gave one some idea of the Sub-Commission's increasing responsibilities and the sustained effort that all would have to make - individually and jointly - in order to carry out those wide-ranging and complex tasks successfully. He therefore urged all members to ensure the highest degree of expertise, experience and objectivity in the work of the Sub-Commission and to advance the global and balanced approach that had characterized the Sub-Commission.

35. Mankind was living through a particularly exciting moment of time and was witnessing profound and positive change, when democratic options were gaining momentum. Democracy and human rights did not always go hand in hand, but they were natural allies and the present process of democratic change gave reasons for hope that respect for human rights would become the essential feature of the world of tomorrow and that the freedom essential for lasting peace would prevail. That was not an impossible dream, for current developments promised a long period of time in which the realization of human rights could and should be one of the major objectives of all countries of the world.

36. It was perhaps in Eastern Europe that the most significant changes had taken place. Practically everywhere, human rights had become the symbol of a better future, and freedom of opinion and expression had become a reality,

along with freedom of assembly and, perhaps most significant, respect for the will of the people, which was the basis for every form of democratic government.

37. However, many problems remained to be solved, and old and new dangers still threatened human rights. The hydra of nationalism, intolerance and racism had reappeared in some places. Those phenomena lent themselves easily to manipulation and led to violations of human rights. There was a need for the greatest vigilance against those dangers and the continued existence of forces inclined to authoritarian rule.

38. The results of recent and positive change remained precarious and must be strengthened in order to be able to cope with existing and new challenges. The Sub-Commission must have a role to play in that context since its mandate included the protection of national, ethnic and linguistic minorities.

39. However, that should in no way be understood as diminishing the other basic aspect of the mandate of the Sub-Commission, namely, prevention of discrimination. Non-discrimination and equality before the law were the first rules of law but they required constant vigilance. Discrimination had recently emerged in a variety of new forms, including those affecting the exercise of the right to freedom of movement. The Sub-Commission had been responsive to those problems and had already started to seek solutions to them. Those activities were among the priorities at the present session.

40. It was often emphasized that the Sub-Commission should ensure that its approach was truly global and balanced because of the complexity of the contemporary world and the variety of problems facing the realization of human rights. Not every country was able to offer equal opportunities in respect of economic, social and cultural rights, and while certain basic human rights like the right not to be subjected to torture and other forms of inhuman or degrading treatment or punishment must be respected in all circumstances, the effective realization of other human rights require the creation of the necessary economic and political conditions. In a world where more than 1 billion human beings lived below the poverty line, poverty represented the major obstacle to the realization of human rights. Poverty meant more than a lack of material resources. It also meant exclusion from society and participation in public life. It must therefore be attacked as a problem of human rights.

41. Needless to say, the task was a long and difficult one. An appropriate methodology still had to be developed to allow a productive consideration of the links between poverty and human rights, including those resulting from an unjust international economic order. In that regard, the efforts being made in different parts of the United Nations system must be taken into account and the increasingly important role of human rights bodies had to be recognized. The recommendations that might result from such a process should represent a genuine contribution to solving the problems involved and not be a mere reflection of short-term needs.

42. He was convinced that the questions which he had not covered - including violations of human rights, the administration of justice and the human rights of detainees - would be properly considered at the present session by the members of the Sub-Commission with the objectivity, impartiality, independence and comprehence that were the hallmark of the Sub-Commission's work.

43. He invited nominations for the offices of Vice-Chairmen.

44. Mr. EIDE nominated Mr. Treat for the office of Vice-Chairman.

45. Mr. TIAN JIN nominated Mr. Hatano for the office of Vice-Chairman.

46. Mrs. KSENTINI nominated Mrs. Attah for the office of Vice-Chairman.

47. Mrs. Attah, Mr. Hatano and Mr. Treat were elected Vice-Chairmen by acclamation.

48. The CHAIRMAN invited nominations for the office of Rapporteur.

49. Mr. ALFONSO MARTINEZ nominated Mr. Saboia for the office of Rapporteur.

50. Mr. Saboia was elected Rapporteur by acclamation.

TRIBUTE TO THE VICTIMS OF APARTHEID

51. The CHAIRMAN recalled that the Sub-Commission, in its decision 1985/109, had decided to observe, at the beginning of each session, a minute of silence in honour of the victims of apartheid.

52. The members of the Sub-Commission observed a minute of silence in honour of the victims of apartheid.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1990/1 and Add. 1 and 2)

53. Mrs. PALLEY suggested that the order of the agenda items should be changed so that the questions dealt with in items 16, 17 and 18 could be taken up early on, at the beginning of the session.

54. Mr. JOINET recalled that two years earlier it had been decided that the Sub-Commission would be informed at each session of the possible absence of members. He suggested that that custom should be maintained in order to avoid any polemics.

55. Mrs. DAES supported Mrs. Palley's proposal. The Sub-Commission should give priority and more time to consideration of item 17, in particular to the question of human rights and youth, in view of the suffering of many children throughout the world today.

56. Mr. van BOVEN said that he had no problems with the provisional agenda. Once the agenda had been adopted, it would be for the officers to indicate how and in what order the various items should be considered. For that purpose, however, the availability of the relevant documents must be taken into account, and he would like to have details on that subject.

57. Mr. ALFONSO MARTINEZ, speaking on a point of order, proposed that the Sub-Commission should formally adopt its agenda before tackling the question of the order of priority of the various items and other matters concerning the organization of work.

58. Mrs. PALLEY drew attention to rule 8 of the rules of procedure according to which, during a session, the Sub-Commission might revise the agenda by adding, deleting, deferring or amending items. However, her proposal had been intended merely to speed up the consideration of item 18, and that was why she had been anxious to make it before the agenda was adopted.

59. The CHAIRMAN suggested that the discussion should be concluded and the agenda adopted before the Sub-Commission moved on to the organization of work.

60. The provisional agenda (E/CN.4/Sub.2/1990/1 and Add. 1 and 2) was adopted.

ORGANIZATION OF WORK

61. Mrs. WARZAZI said that now the agenda had been adopted, attention should be given to the question of the order of priority to be given to the different items. Agenda item 17 should certainly be given priority attention in view of the problems of the protection of children and the extremely serious position of indigenous peoples in certain regions.

62. With respect to the organization of work, she proposed, as in previous years, that the members of the Sub-Commission should be free every Friday afternoon in order to study documentation. She also hoped that the officers would consider the possibility of extending the plenary meetings until 7 p.m. on days when a working group met before the plenary.

63. She wished to point out that the three Vice-Chairmen who had been elected were all on the same footing and was surprised that a rank had been assigned to them on the identity plates in the meeting room.

64. The CHAIRMAN said that that was a mistake which would be duly corrected.

65. Mrs. KSENTINI requested that the concise note on human rights and the environment (E/CN.4/Sub.2/1990/12 should be introduced under agenda item 4, in accordance with the practice established by the Sub-Commission.

66. Mr. ALFONSO MARTINEZ agreed with Mrs. Warzazi that it was important to decide on the order of priority for the various items on the agenda and to give due attention to the problems of indigenous peoples. It would also be very useful to think about the way in which the work of the three sessional working groups could be spaced out. In view of the importance of agenda item 19, he suggested that priority should be given to the working group dealing with that subject so that it could begin its work as soon as possible.

67. He wished to make it clear to Mrs. Palley that he had proposed that the agenda should be adopted without further ado only because the discussion had focussed not on the adoption itself of the agenda but on the way in which the Sub-Commission should consider the various items.

68. Mr. SACHAR said that he hoped that the adoption of the agenda did not mean that the various items would be considered in the order in which they appeared. It had not been possible to consider some questions at the last session because of lack of time, and he therefore suggested that the Sub-Commission should consider them on a priority basis.

69. The CHAIRMAN said that the officers would take due account of all suggestions made and would endeavour to establish a work programme that took account of the views and wishes of the members. He suggested that the members should hold immediate consultations at once in order to set up the three sessional working groups.

70. Mr. CISSE (Secretary of the Sub-Commission) said that the situation regarding documentation was satisfactory. A list of all documents already available would be distributed and updated daily during the session.

The meeting rose at 1.15 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

CONTENTS

Organization of work (continued)

Review of the work of the Sub-Commission

Organization of work (continued)

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GE.90-12618/2489B

The meeting was called to order at 10.30 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN informed the Sub-Commission that the Bureau had made recommendations concerning the organization and conduct of the Sub-Commission's work at its current session. It had worked out a provisional timetable for the consideration of the items on the agenda, with due regard inter alia for the availability of documents and the possibilities open to rapporteurs to submit their reports. The provisional timetable had been distributed to members and could be revised if necessary.

2. The membership of the proposed three sessional working groups had been established on the basis of proposals submitted by the different regional groups. The members of the Working Group on item 6 would be Mr. van Boven, Mr. Heller, Mrs. Ksentini, Mr. Sachar and Mr. Chernichenko; the members of the Working Group on item 10 would be Messrs. Hatano, Ilkahanaf or Guissé, Joinet, Suescún Monroy and Türk and the members of the Working Group on item 19 would be Mr. Alfonso Martínez, Mr. Diaconu, Mr. Eide, Mrs. M'bonu and Mr. Sadi. The other members of the Sub-Commission could, of course, take part in the discussions of the working groups of interest to them if they so desired.

3. In accordance with established practice, the Bureau recommended that two special rapporteurs, who were former members of the Sub-Commission, should be invited to participate in the session so that they could present their reports when the relevant agenda items were considered. They were Mr. Luis Varela Quirós, for item 4, and Mr. Dumitru Mazilu, for item 7. The Bureau also recommended that an invitation be extended to Mrs. Quisumbing, Chairman of the Commission on Human Rights at its forty-sixth session, who was to make a report to the Sub-Commission pursuant to Commission resolution 1990/64.

4. Regarding the conduct of business, in accordance with established practice, the floor would be given as a general rule to the members of the Sub-Commission, at any time, and to observers for States and organizations. Statements would be limited to 10 to 15 minutes for members of the Sub-Commission and 10 minutes for observers for States and organizations who might, however, be authorized to make a second statement lasting 6 minutes for composite items. Observers for States would also have five minutes for a first right of reply and three minutes for a second right of reply. Special rapporteurs should not exceed 20 minutes for their introductory statements and 15 minutes for their concluding statements.

5. The Bureau also recommended that, in accordance with the opinion of the Office of Legal Affairs of the United Nations, a State that was the subject of a draft resolution should be invited by the Sub-Commission to participate, if it so desired, in the deliberations on the relevant draft resolution, prior to the beginning of the voting on that draft. The Chairman would indicate when the procedure for voting had begun.

6. The Bureau recommended that draft resolutions should be tabled at least four working days before the date foreseen for voting. Resolutions with financial implications should be submitted as early as possible so as to allow sufficient time for the Secretariat to make the necessary calculations.

7. The Bureau suggested that the attention of the Sub-Commission should be drawn, in particular, to Commission on Human Rights resolutions 1988/43, 1989/36 and 1990/64, which contained guidelines on the organization of the Sub-Commission's work.

8. At its forty-first session, the Sub-Commission had asked the Office of Legal Affairs of the United Nations whether rule 60 of the rules of procedure of the Functional Commissions of the Economic and Social Council could be applied in view of the Sub-Commission's decision to suspend rule 59 of the rules of procedure in order to take certain decisions by secret ballot. He invited the representative of the Office of Legal Affairs of the United Nations to inform the Sub-Commission of the Office's opinion on that issue.

9. Mrs. NOLL-WAGENFELD (Office of Legal Affairs of the United Nations) said that, at its forty-first session, the Sub-Commission had inquired whether, in the light of its decision to suspend rule 59 of the rules of procedure in order to adopt certain decisions by secret ballot, the right of explanation of vote under rule 60 was in effect non-exercisable, because it would run counter to the very principle of a secret ballot. Since that issue was not specifically addressed in the rules of procedure of the Functional Commissions of the Economic and Social Council, the Office of Legal Affairs had, according to practice, referred to the rules of procedure of the General Assembly, rule 88 of which provided that "... the President may permit members to explain their votes, either before or after the voting, except when the vote is taken by secret ballot ...". It was clear from that provision that the element of secrecy pertaining to a vote by secret ballot had to be maintained. Accordingly, the Office of Legal Affairs advised that the suspension of rule 59 for the purpose of taking certain decisions by secret ballot ruled out the application of rule 60 of the rules of procedure regarding explanations of vote.

10. Mr. ALFONSO MARTÍNEZ, having thanked the Bureau for taking into account the suggestions made by the members of the Sub-Commission concerning the organization of work, and in particular his proposal to give priority to the Working Group on item 19, said that he was surprised that only two meetings had been provided for that Working Group and for the Working Group on item 6, and wondered whether, during the second week of the session, it might be possible to provide an extra meeting for one of those two Groups. However, he was aware of the need to ensure that the meetings of the various groups were not held simultaneously, a need which the Bureau had taken into account.

11. With respect to the invitations to take part in the session to be sent to experts who were no longer members of the Sub-Commission, he suggested that it would also be useful to invite Mr. Mubanga Chipoya, whose report covered the matter dealt with under agenda item 19.

12. He hoped that the deadline set for the submission of draft resolutions would be applied flexibly, for experience had often shown that the periods specified were not long enough to allow time for the necessary consultations before the vote on a draft resolution.

13. The CHAIRMAN said that the time established was four working days and that the Bureau's recommendation already allowed for a certain degree of flexibility.

14. Mr. SACHAR, speaking on a point of order, suggested that the Sub-Commission should, as a matter of urgency, take note of the violation of article 21 of the Universal Declaration of Human Rights represented by the dismissal of the Government of Pakistan.

15. The CHAIRMAN said that the Sub-Commission would deal with that matter when it considered the agenda item on violations of human rights in various countries.

16. Mr. JOINET said that he was not sure whether the State that was the subject of a draft resolution had the right to make a statement before consideration of the draft or after the vote on it. He asked for clarification on that point and also how long the representative of that State would be allowed to speak.

17. He was very satisfied with the opinion of the Office of Legal Affairs, which he thought completely logical. With respect to Mr. Sachar's proposal, the situation in Pakistan, and in other parts of the world also, required that the Sub-Commission should not content itself with noting the existence of a violation but should take practical steps on the matter before the end of its session.

18. The CHAIRMAN, recalling that the Office of Legal Affairs had provided a legal opinion concerning the participation in the Sub-Commission's deliberations of States forming the subject of a draft resolution, referred Mr. Joinet to the text of that opinion.

19. Mrs. WARZAZI thanked the Bureau for its efforts to establish a timetable taking account of all the suggestions made. However, she regretted that it had not adopted her proposal to leave the experts free every Friday afternoon to allow them to study the documentation. She hoped that the Bureau would give further consideration to that proposal especially since one of the working groups might be able to meet for a whole afternoon on two consecutive days. Two full afternoons were also provided for the Working Group on item 6, and she was surprised at that departure from the Sub-Commission's practice. The questions relating to those two items could, she thought, be considered for an hour by the working group concerned and then discussed in plenary meeting, so that the members could have Friday afternoons free. She also hoped that the communications could be considered on a Monday since that would give the experts time to study them during the previous weekend.

20. The CHAIRMAN assured Mrs. Warzazi that the members of the Sub-Commission would have ample time to study the communications before they were considered in the plenary meeting. As far as the working groups were concerned, he pointed out that there were currently three, many more than at previous sessions, and that one of them, the Working Group on item 19, had to formulate a set of standards on the right of every person to leave any country including his own and to return to his country. It was therefore important for that Group to start its work as soon as possible in order to finish it on time. The number of meetings allocated to working groups was in accordance with established practice.

21. Mr. KHALIFA said he noted that the Working Group on item 6 was to meet at the beginning of the session whereas, in accordance with Sub-Commission decision 1989/104, it was to submit its conclusions in the light of the Sub-Commission's deliberations on that agenda item at its forty-second session. He would like to know, therefore, whether the Working Group in question was to submit its report before the discussion on that item, which would run counter to the decision in question, or at a later stage.

22. The CHAIRMAN thanked Mr. Khalifa for having raised that problem, which did indeed require some thought. It was to be hoped that it could be effectively resolved. One solution might be for the Working Group on agenda item 6 to establish a provisional report, whose final version would reflect the comments made during the discussion in the plenary meeting.

23. Mr. SADI stressed that the Sub-Commission should allow for the possibility of a rapid discussion on urgent questions to which the international community wished to give priority.

24. Mr. DESPOUY said he regretted that, in the draft timetable, consideration of item 4 had been left to the end of the session. Certain parts of that very wide-ranging agenda item might, perhaps, be dealt with earlier, in connection with other items. He also recalled that he had requested that consideration of his report on Human Rights and Disability (agenda item 12) should be put off until the next session since, because of financial constraints, the Secretariat had been unable to give him all the help that he wanted. He hoped to be able to finish his report in time for the next session, thanks inter alia to the contributions from non-governmental organizations.

25. The CHAIRMAN said that the Sub-Commission would have to decide whether to defer its consideration of item 12, as requested by Mr. Despouy. He asked the members of the Sub-Commission to let him know promptly whether they had any objections in that regard.

26. Mr. JOINET said that, like Mrs. Warzazi, he had some reservations about the draft timetable. He agreed that the experiment proposed by the Bureau in the current year was unprecedented, but considered that it should be tried out. Meetings of the working groups had previously been held at the beginning of the afternoon, followed by plenary meetings, and that had had the result of breaking up the Sub-Commission's work. He therefore thought that the Bureau's proposals should be adopted on an experimental basis at the current session and conclusions could be drawn for the following session. Moreover, it seemed to him that the procedures for considering communications might be examined by the Sub-Commission in a public meeting, although the communications themselves should be examined in a closed meeting.

27. Mrs. PALLEY said she agreed with Mr. Sadi that urgent questions had to be examined rapidly. To that end, item 6 might be kept under constant consideration and a member would be able to request the Chairman to open the discussion at any time on any new and serious situation under that item.

28. Mrs. KSENTINI said that, like Mrs. Warzazi, she doubted whether half-day meetings should be allocated to the Working Group on item 6 at the beginning of the session. It would be better for the Working Group to hold a preliminary short meeting to identify the elements of its task and to return to those elements later on after consideration and consultation. Moreover, she found

it disturbing that item 4 had become a kind of ragbag item. It would be better to devote it to really new elements. In connection with item 3, she would like to have an in-depth study of the list of all the studies undertaken by the Sub-Commission. She had asked for such a list at the previous session and it currently appeared in the note by the Secretary-General (E/CN.4/Sub.2/1990/2).

29. Mr. SADI said, if he had understood correctly, there would be no plenary meeting on afternoons on which the working groups met. It was therefore inconvenient that no plenary meeting at all was scheduled for afternoons during the first week. It might be better to schedule the meetings of working groups for the early afternoon, between 2 and 4 p.m., and hold plenary meetings afterwards.

30. Mrs. WARZAZI pointed out that, in the annotated agenda, the question of the protection of journalists appeared under agenda item 4, whereas in the list of documentation for the current session it was attached to item 6. Moreover, that list contained no report on agenda item 5 (a), "Measures to combat racism and racial discrimination", which the Under-Secretary-General for Human Rights was to introduce on 8 August 1990. She hoped that, at very least, members would receive the report of the International Seminar on Cultural Dialogue between the Countries of Origin and the Host Countries of Migrant Workers held, at Athens from 18 to 26 September 1989 (E/CN.4/1990/50). Generally speaking, she asked for documents to be made available to members the day before they were due to be discussed. She had prepared a statement on agenda item 4, which she would submit at the time the Sub-Commission considered most appropriate.

31. Mr. van BOVEN said that he found the draft timetable recommended by the Bureau generally acceptable. However, he regretted that there was a certain amount of confusion in the agenda itself. Some items had become routine and had lost some of their interest, while new and important questions had been lumped together under item 4, which was annoying.

32. In connection with Mr. Despouy's request that consideration of his report on human rights and disability be postponed, he pointed out that several non-governmental organizations had travelled in order to submit information on the topic to the current session and that they must be given the floor. In connection with item 6, the proposed timetable should perhaps be revised as suggested by Mrs. Ksentini, the more so since the terms of reference of the Working Group in question had changed. It was not certain that that Working Group would need two full meetings in the first week. He agreed with Mr. Joinet that, although actual consideration of the communications must take place in a closed meeting, the procedures for their consideration could be discussed in a public one.

33. Mr. EIDE said that he was able to accept the Bureau's draft timetable, which reconciled different concerns. However, he considered that the Working Group on item 6 should be able to meet again later in the session to consider what had been said on that item in the plenary meeting. At the last session, some key questions of concern to that Working Group had been the subject of an in-depth discussion, and it might well have enough to do for two full afternoons at the beginning of the session.

34. With regard to documentation, he thought it would be useful, as provided in the draft timetable, to consider item 18 at the beginning of the second week, but he wondered whether his own report under that item (E/CN.4/Sub.2/1990/46) would have been distributed by then. In connection with item 5 (a), he hoped like Mrs. Warzazi, that the report of the Athens Seminar on Cultural Dialogue between Countries of Origin and Host Countries of Migrant Workers (E/CN.4/1990/50) would have been distributed. The same was true of his own study on the results obtained and obstacles encountered during the Decade for Action to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1). In addition, he would like certain relevant working documents in connection with item 6 to be distributed, including one written by Mr. van Boven and himself.

35. He endorsed the points made by Mrs. Palley and Mr. Sadi with respect to the consideration of urgent matters. In his view, agenda item 3 should open up possibilities for considering that type of question.

36. Mr. ALFONSO MARTÍNEZ said he quite agreed that the Working Group on item 19 should begin to meet very early, which should be possible since the documentation on that item was available. However, the members of the Sub-Commission needed a minimum amount of time to familiarize themselves with the documentation, for the question was a complex one requiring arduous technical work. If, therefore, there were not enough speakers in that Working Group prepared to make a statement immediately, the Sub-Commission might hold a plenary meeting after that of the Working Group. It must adopt a flexible approach in order to use the available time to the best effect.

37. On the subject of Mr. Joinet's proposal and Mr. van Boven's comments, he thought that nothing connected with Economic and Social Council resolution 1503 (XLVIII) should be the subject of public discussion. It would be wiser to discuss questions concerning that resolution in a closed meeting, and the Chairman could then make a public statement, as on other occasions.

38. The possibility of working groups holding informal meetings rather worried him, for informal meetings always excluded in practice many members of the Sub-Commission. Meetings of working groups should always be official meetings, so that everyone who wished to participate should have the possibility to do so, and to do so officially.

39. The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Commission accepted Mr. Despouy's proposal to defer till the next session consideration of agenda item 12, on the understanding that anyone who wished to refer to questions connected with that item could do so under other relevant items of the agenda.

40. It was so decided.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (E/CN.4/Sub.2/1990/2)

41. Mr. MARTENSON (Under-Secretary-General for Human Rights) recalled that, since 1982, the Sub-Commission had examined its working methods, programme of work and relationship with the Commission. At its thirty-seventh and thirty-eighth sessions, it had established a sessional working group to study that matter but by resolution 1985/24 had decided to discontinue the work of that group in order to ensure the full participation of all members of the Sub-Commission.

42. The Economic and Social Council and the Commission on Human Rights had adopted a number of resolutions by which they recalled the terms of reference of the Sub-Commission and gave it directives concerning its role, title and methods of work, as well as the election of its members and alternates. At its most recent session, the Commission on Human Rights had taken note of the report of the Sub-Commission and adopted resolution 1990/64 expressing its appreciation of the positive contribution made by the Sub-Commission to the work of the Commission and inviting Mrs. Quisumbing, the Chairman of the Commission, to inform the Sub-Commission concerning the debate under that item. At the same session, the Commission also had before it a report from Mr. Yimer, Chairman of the Sub-Commission at its forty-first session, who had also addressed the Commission.

43. At its forty-first session, the Sub-Commission had decided to examine at its current session, under the agenda item being considered, ways and means of rationalizing proposals for studies and to examine the possibility of drawing up a medium-term programme that would ensure the participation of the greatest possible number of Sub-Commission members in its studies. By the same decision (1981/103), the Sub-Commission requested the Secretary-General to prepare a list of all the studies already undertaken, with the names of their authors. That list was contained in document E/CN.4/Sub.2/1990/2. In that connection, he drew attention to operative paragraphs 4 to 6 of Commission resolution 1990/64 which was directly relevant to the question.

44. Lastly, he drew attention to decision 1989/104 in which the Sub-Commission had decided to establish a sessional working group composed of five of its members to prepare an overview and an analysis of the suggestions and proposals made in order to enable the Sub-Commission to discharge more effectively its responsibilities in dealing with violations of human rights. By the same decision, the Sub-Commission had decided to continue discussing the item under consideration at its present session.

45. Mr. JOINET said that he had a suggestion to make that was only indirectly related to item 3 but nevertheless affected the item since it was designed to help facilitate the work of the Sub-Commission. Since the Centre for Human Rights had just been reorganized, he asked the Secretariat to explain, even in outline, the recent reorganization of the Centre for Human Rights in a document to be distributed to the members of the Sub-Commission, since that would enable them to identify the new officials with whom they would have to deal.

46. The CHAIRMAN said that the Secretariat would reply to that request at a later stage.

47. Mr. KHALIFA, noting that the Working Group concerned was to begin its work in a few days on the sole basis of two succinct documents, said he considered that the Sub-Commission should try to compensate for that lack of documentation by giving the Working Group some indications and suggestions. It was, for instance, essential to take into account the very important fact that a page had been turned in the history of international relations, which would necessarily have an influence on the work of the Sub-Commission as on that of the other human rights bodies. Henceforth the world would be characterized not by the cold war or by nuclear arsenals but by the existence

of competing economies. However, because of the very nature of human rights, which largely depended on considerations of a political nature that were always difficult to handle, he hoped that the Working Group would not hesitate to open that Pandora's box in order to carry out its mandate to the best of its ability.

48. The criteria adopted in judging a given human rights situation were often selectively applied in order to serve certain aims which could not always be avowed. The Sub-Commission had admirably resisted all manoeuvres designed to stop it from carrying out its duty, but it had nevertheless sometimes reached questionable decisions, as in the case of the updating of certain studies. The Working Group might tackle another problem, perhaps a less complex one, namely, sources of information. The Sub-Commission needed very sound foundations on which to base its judgements. Normally it depended on the work - mostly honest and useful - of organizations, but it should nevertheless be possible to check that information more thoroughly. Because of time constraints, the Sub-Commission adopted resolutions on countries without having been able to examine in a suitable way the facts submitted by all the parties concerned. It was also influenced by the media, whose power was well known. All those questions needed thought and a search for ways of improving the Sub-Commission's work and making it more objective.

49. He approved the requests made by the Commission on Human Rights in its resolution 1990/64 and hoped that the Sub-Commission would be able to follow the guidelines given therein. The Working Group should also take account of the fact that the field of human rights was entering into a new era, that structures had changed and that new factors and new variables, that were unknown when the Charter was drafted, had appeared.

50. Mr. JIN Tian endorsed Mr. Khalifa's remarks and recalled that Mr. Yimer had said the day before that the Commission had appreciated the Sub-Commission's report, although criticisms had also been voiced by some members or representatives who felt that the Sub-Commission had deviated from its initial mandate over the years. Consideration of item 3 should thus be the opportunity for the Sub-Commission to think about those comments and to seek a way of following the guidelines laid down by the Commission.

51. The Sub-Commission should take care not to politicize its work and not to devote too much time to considering the situation in certain countries or to the discussion of procedural matters. It should concentrate its efforts on examining draft declarations, draft reports, studies, etc., while avoiding a proliferation of items on its agenda. In other words it should not dissipate its efforts and should try to make its work more thorough.

52. Moreover, he believed that, when the Sub-Commission decided to undertake a study, it would be better for it to entrust it to a working group representing the different regions of the world rather than to a special rapporteur. That working group might provide an outline of the study requested and ask one or two of its members to submit a draft report, which would then be revised and discussed by the working group itself.

53. It had recently been decided to enlarge the composition of the Commission on Human Rights, which would have 10 additional members so as to ensure a better geographical distribution. That was an important decision which should also be of assistance to the Sub-Commission.

54. He hoped that the Sub-Commission would take the greatest account of the guidelines given to it by the Commission and that the Bureau would make all the amendments necessary to the report so that the Commission no longer had the opportunity of criticizing the work of the Sub-Commission.

ORGANIZATION OF WORK (continued)

55. Mr. EIDE said that the task of the Working Group on item 19 was not particularly complex, since it would have at its disposal a draft declaration accompanied by comments. However, he thought that the Working Group could make full use of the time allotted to it.

56. Mrs. PALLEY said that she was pleased to note that the Sub-Commission had been invited to show flexibility, but she was concerned whether that would be enough to allow consideration of urgent questions under item 6. She hoped, at any rate, that no one would be prevented from making a statement on a particularly important and urgent new fact under that item.

57. The CHAIRMAN suggested that, before continuing its discussions, the Sub-Commission should take a decision on the recommendations of the Bureau, in particular with respect to the timetable. If he heard no objection, he would take it that the Sub-Commission wished to adopt the Bureau's recommendations.

58. It was so decided.

59. The CHAIRMAN suggested that the Sub-Commission should consider whether it could raise an urgent problem under item 6 before it had started its consideration of the item.

60. Mr. SACHAR said that the problem in the current case related not to questions to be considered under item 6 but to extremely urgent questions which should be considered immediately, such as, for example, a case of a violation of article 21 of the Universal Declaration of Human Rights. In his view it was the duty of the Sub-Commission to proceed immediately to such consideration.

61. Mr. JOINET said he agreed with Mr. Sachar. Prudence and the need for agreement should not make the Sub-Commission forget that, in order to retain its credibility, it had a duty to take the initiative, particularly at a time when it was the only United Nations organ which was meeting during a holiday period. It was his understanding that, under rule 8 of the rules of procedure, it would be possible to hold a discussion on an important and urgent question and, in that connection, he recalled the example of the telegram which the Sub-Commission had sent regarding Mr. Mandela. The events taking place in Pakistan, Liberia and Kuwait were equally urgent.

62. What was involved was a fundamental question which emerged from a reading of the annotated agenda. That document, the quality of which was improving from year to year, presented the comments made by the Commission on the Sub-Commission; those comments, incidentally, contained more compliments than criticisms, though the latter were always constructive. However, when, for example, the Commission reminded the Sub-Commission that it must not concern itself with matters which were being fully dealt with elsewhere, it was in fact asking it to ensure above all that it was making a contribution which was both original and specific. For example, while it was not for

the Sub-Commission to denounce the Iraqi aggression, it was entitled to ask the Government of Iraq for information concerning the allegation that had appeared in the press to the effect that very many members of the Iraqi opposition who had taken refuge in Kuwait had been arrested and taken to Iraq. The mandate of the Sub-Commission was to concern itself with a situation to the extent that violations of human rights might occur. It should know how to intervene and should do so with a sense of proportion but always in the direction of defending human rights.

63. Mr. EIDE said that, when the Commission criticized the Sub-Commission for departing from its mandate, it forgot that the Sub-Commission was only following the instructions given it by the Commission itself. It was actually the Commission which had assigned new tasks to the Sub-Commission.

64. It was true, however, that many improvements could be made in the work of the Sub-Commission. The difficulty lay in finding a balance between, on the one hand, an orientation which was as little politicized as possible and action consistent with the independence and objectivity of the experts themselves and, on the other hand, the need not to fight shy of dealing with certain serious and urgent questions affecting human rights. The ouster of the Government of Pakistan was one example, for what was being witnessed there was a return to a non-democratic situation in a country where a degree of progress had taken place. He asked whether the observer of Pakistan could explain the constitutional basis on which the Government had been dismissed.

65. In connection with the conflict between Iraq and Kuwait, he drew attention to a letter addressed to the Secretary-General by the Permanent Representative of Kuwait to the United Nations, according to which a number of violations of human rights were, at that very moment, taking place in Kuwait. It would be unfortunate if the Sub-Commission could not discuss the matter as soon as possible and perhaps thereby prevent very regrettable events which might occur at the very time that the Sub-Commission was in session. In that connection, the Working Group on item 6 should concern itself with ways of dealing with such urgent questions.

66. The CHAIRMAN suggested that the Sub-Commission should, for the moment, confine itself to questions relating to the organization of its work and that its members should hold informal consultations to discuss questions which they regarded as urgent and ways of handling them.

67. Mrs. WARZAZI said she wished to submit to the Sub-Commission a problem of intense urgency concerning the protection of indigenous peoples. In Canada, the Mohawks were on a collision course with the armed forces of the Government of Quebec in connection with the location of a golf course. The Quebec authorities had already begun to evacuate non-indigenous families and she feared that there would be bloodshed. She thought that the Sub-Commission should request the Secretary-General to intervene personally with the Quebec authorities to persuade them to negotiate rather than use force.

68. Mr. ALFONSO MARTÍNEZ said he was not in favour of the proposal that the Sub-Commission could at any time consider a question under an item of the agenda merely at the request of one of its members. Such an initiative would be a source of too many difficulties in view of the complexity of situations. He need mention as an example only the problem which Mrs. Warzazi had raised. In his view, the Sub-Commission must adhere to the mandate and role given it by its supervising organ.

69. Mr. VERGNE SABOIA said that he quite understood the reasons why some members of the Sub-Commission felt impelled to call for the consideration of urgent issues that arose in the field of human rights. For his part, he would prefer that the instructions of the Commission should be respected and that consideration should be given only to issues which were directly concerned with human rights. Problems of an essentially political nature should be avoided, as the Sub-Commission might not be fully informed about them although it might sometimes be necessary for it to pronounce on urgent questions from the point of view of human rights. An agenda item under which it would be possible to consider an issue at any time would risk relegating activities coming within the Sub-Commission's mandate to a position of secondary importance.

70. Mr. DESPOUY said that, while he was ready to collaborate with the Chairman who seemed to prefer a well-defined framework of discussion, he regretted that consideration of item 4 was not scheduled until the end of the session. It was usually examined at the beginning of the session, and that made it possible to prepare for the study of recent events under item 6. The Chairman could however submit a proposal to the Sub-Commission on the following day regarding ways of dealing with urgent questions. It would, for example, be possible to open the discussion on point 4 to deal with those questions and to re-open it in the last week in order to consider the various issues which fell within the scope of that item.

71. The CHAIRMAN invited members of the Sub-Commission to hold informal consultations during the afternoon and the following day. The Bureau would also meet to prepare recommendations on the points which had been raised.

72. Mrs. WARZAZI, speaking on a point of order, stressed the urgency of her proposal concerning the Mohawks and requested that the Sub-Commission take a decision immediately.

73. The CHAIRMAN recalled that he had proposed that informal consultations should be held on the questions which had been raised.

74. Mrs. WARZAZI pointed out that the Quebec authorities had issued an ultimatum and that only two hours remained for action.

75. Mr. SADI said that the representative of Canada was absent and that it would be impossible to take a decision if both the parties to the dispute were not heard.

76. Mr. van BOVEN said that the case submitted by Mrs. Warzazi was an excellent example of the difficulties which could arise from extremely urgent questions, since the Sub-Commission had to have full information and time for the necessary consideration. Such a case was not suitable for a body of experts, who risked discrediting themselves by acting in haste. Mrs. Warzazi should not insist for the moment, notwithstanding the real importance and urgency of the situation in question.

77. Mr. ALFONSO MARTÍNEZ said he shared that view. Emphasizing that time for reflection was essential, he asked Mrs. Warzazi to wait until the following morning when the representative of Canada would be able to make a statement.

78. Mr. CHERNICHENKO said that, in any case, the decision of the Sub-Commission - which had still to be taken - would arrive too late, and that its members should not try to replace the Commission.

79. Mrs. WARZAZI reminded the Sub-Commission that there was an ultimatum and that it was only a question of requesting the Secretary-General to intervene quickly in order to ask the Quebec authorities to pursue negotiations.

80. Mr. KAMAL (Observer for Pakistan) said that the change which had taken place in Pakistan was strictly constitutional. The Constitution of Pakistan gave the elected President of the country discretionary power to dissolve the National Assembly. Elections would be held in October and all parties, including that of the Prime Minister who had been dismissed, could participate.

81. Mrs. PALLEY said in connection with the question of the Mohawks, that she had seen a document according to which the ultimatum to which Mrs. Warzazi had referred would not expire until 10 p.m., Geneva time. That would give the Sub-Commission time to reflect and make it possible for the representative of Canada to participate in the discussion.

82. Mr. JOINET, supporting Mrs. Warzazi, pointed out that the Sub-Commission could, indeed, make an original contribution in view of the fact that one of its working groups dealt with the question of indigenous peoples. He would have welcomed the views on the matter of Mrs. Daes, Chairman of the Working Group in question, but she was unfortunately absent.

83. The CHAIRMAN suggested that the Sub-Commission should adhere to the programme of work which had been adopted.

84. Mrs. WARZAZI said she regretted that the Sub-Commission would not express an immediate opinion on her proposal.

85. Mrs. PALLEY requested that the proposal be put to the vote.

86. The CHAIRMAN suggested that the Sub-Commission should resume its discussion on that issue in plenary meeting at 3 p.m., after which it would adjourn in order to enable the Working Group on item 19 to start work.

The meeting rose at 1.25 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 August 1990, at 3 p.m.

Chairman: Mr. TÜRK

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Organization of work (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

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GE.90-12628/4161a

The meeting was called to order at 4.25 p.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN recalled that at its second meeting the Sub-Commission had adopted a provisional timetable for the consideration of agenda items.

2. The question of how the Sub-Commission should treat urgent matters had arisen and he had asked members to hold consultations in order to find a way of tackling the issue. The Bureau was to meet at 6 p.m. that evening to discuss a possible procedure.

3. Reference had been made to the situation in Canada and, following contacts with the Permanent Mission of that country, he suggested that the following statement by the Chairman should be adopted:

> "During the second meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second session, concern was expressed regarding the situation in Oka, Canada. This was conveyed to the representative of the Government of Canada who reiterated the Government's intention to continue to keep informed the Chairman of the Sub-Commission, the Chairman of the Working Group on Indigenous Populations and the United Nations Secretary-General, about the process of negotiations aimed at peaceful and negotiated solutions."

4. Mrs. WARZAZI supported the Chairman's statement on the understanding that the Chairman would communicate any information he received following that statement to the members of the Sub-Commission.

5. Mr. SADI wondered whether the Sub-Commission had the authority to take a decision on the statement without the Commission's approval. He suggested that in view of the sensitive situation in Canada the word "Quebec" should be included after "Oka".

6. The CHAIRMAN stressed that the text in question was a Chairman's statement, drafted after consultation, and not a matter for decision by the Sub-Commission.

7. Mrs. KSENTINI observed that if no decision of the Sub-Commission was involved, logically members would not have the right to comment on the Chairman's statement. The text was very vague and it might be useful to specify the situation in Canada to which it referred.

8. Mr. JOINET recalled his suggestion at the previous meeting that the Sub-Commission should take action in view of the serious situation in Liberia. In consultation with Mrs. Warzazi, he had begun to prepare a message to be sent to the Chairman of the Organization of African Unity. Meanwhile, however, information had been received that the African leaders and the Chairman of the OAU were meeting to discuss the situation in Liberia, which had thus become less urgent for the Sub-Commission. Unless that information was incorrect, therefore, it would be better for the Sub-Commission to defer its discussion of the Liberian situation for a few days.

9. Mr. DESPOUY hoped that at its next meeting the Sub-Commission would be able to discuss the procedure suggested by the Bureau to allow the Sub-Commission to deal with urgent matters.

10. He endorsed the Chairman's statement, agreeing that it was not a decision of the Sub-Commission. The situation to which the statement referred would be clear from the summary record of the previous meeting. He thanked the representative of the Government of Canada for his prompt co-operation in providing the Sub-Commission with the necessary explanations.

11. Mr. ALFONSO MARTÍNEZ said that he could support the Chairman's statement, despite its vagueness, on the understanding that the Sub-Commission was kept informed of future developments on the matter. However, it was important for the members of the Sub-Commission to be able to take part in drafting any future similar statements, and he hoped that the Bureau would give due attention to that point.

12. Mr. TREAT agreed with Mr. Alfonso Martínez and Mr. Despouy. There was indeed a need for a procedure to handle matters of urgency, but pending the Bureau's proposal, it was essential for the Sub-Commission to continue its work. He thanked the Chairman for the way in which he had handled the matter.

13. Mr. SADI considered that representatives of the Canadian Government and the indigenous people concerned should have been allowed to address the Sub-Commission; instead, the Sub-Commission was presented with a statement that was the result of private consultations. He would not lodge a formal objection to that procedure, but would merely express the hope that it would not constitute a precedent.

14. The CHAIRMAN said that he had noted the points raised, which would be considered by the Bureau.

The meeting rose at 4.50 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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Organization of work (continued)

Review of the work of the Sub-Commission (continued)

Elimination of racial discrimination

(a) Measures to combat racism and racial discrimination and the role of the Sub-Commission

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GE.90-12634/2512B

The meeting was called to order at 10.30 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN read out a statement drafted by the Bureau to the effect that the Bureau had met to consider the question of dealing with matters considered to be urgent and had unanimously agreed on the need to observe the Sub-Commission's agenda and to ensure the smoothest conduct of its business. The Bureau had also agreed that human rights situations, wherever they occurred, could not be ignored and that such matters could and should be taken up by the Sub-Commission on an ad hoc basis within its rules of procedure. The Bureau had unanimously agreed that the existing practice of the Sub-Commission had shown that that concern had so far been safeguarded and that that practice had so far proved sufficient. Thus while the Bureau saw no need for any departure from existing practice, it wished to reiterate the right of any members to raise at any time under the rules of procedure any issue they considered as deserving the Sub-Commission's urgent attention.

2. Mrs. KSENTINI requested that the text of the statement should be distributed.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued) (E/CN.4/Sub.2/1990/2)

3. Mr. van BOVEN reverted to some of the criticisms made by the Commission on Human Rights of the Sub-Commission. The Sub-Commission indeed seemed to be considering too many items, embarking on too many studies and adopting too many resolutions, and quantity should not be confused with quality, particularly by a body which claimed to be a think tank. For instance, in many cases, simple decisions could be adopted instead of long and complicated resolutions.

4. The Commission also considered that the Sub-Commission should avoid duplicating the work of other organs. However, when it criticized the Sub-Commission for departing from its terms of reference, the Commission seemed to ignore the mandates it had itself given to the Sub-Commission. The note by the Secretariat dated 22 February 1982 on a review of the status and activities of the Sub-Commission and its relationship with the Commission and with other United Nations bodies (E/CN.4/Sub.2/1982/3) and other later documents on similar lines had been submitted to the Sub-Commission's parent bodies, and the Sub-Commission's broader approach was thus in conformity with the instructions of the bodies to which it was responsible.

5. With regard to the great number of agenda items, he proposed that items should be grouped in six main clusters: discrimination, minorities, human rights violations, vulnerable people (handicapped people, indigenous populations, victims of commercial interests, and so forth), economic, social and cultural rights, and detention. The Sub-Commission could arrange to study some of those items on an annual basis and others on a biennial basis.

6. Regarding urgent matters, without quarrelling with the statement read out by the Chairman, he recalled that it was possible, for example, to call on the good offices of the Secretary-General throughout the year, whereas a Sub-Commission session lasted only four weeks. There were also rapporteurs and working groups dealing with questions such as torture, execution and

disappearance able to take action in cases of emergency. They would not do so, however, unless they were in possession of reliable and accurate information; that had not been entirely the case in the matter submitted on the previous day. The Sub-Commission should also take into account the criterion of utility when considering the measures to be taken. The Secretary-General and the rapporteurs, for example, worked in a way that was confidential, in the interests of greater effectiveness, and the question arose of whether overt action would produce better results. At all events, it would be a good thing if the Sub-Commission followed some of the guidance given in document E/CN.4/1982/3, if it refrained from acting in isolation, but acted in harmony with other United Nations agencies and organs. That did not mean that it should refrain from taking action, but when it did act it should show wisdom and restraint, since its objective was effectiveness, not political advantage.

7. Mr. SADI stressed that the Sub-Commission should in future try to focus in its resolutions on new developments and avoid reverting to past events on which the Commission had already taken decisions.

8. Mr. EIDE agreed with Mr. van Boven in emphasizing the importance of document E/CN.4/Sub.2/1982/3, which should be brought up to date and distributed, since the Commission as well as the Sub-Commission would benefit from a clearer idea of the Sub-Commission's terms of reference as they stood at present.

9. With regard to emergency measures, the Sub-Commission should look for ways of calling on other mechanisms in the system, for example, the good offices of the Secretary-General. It could merely draw attention to certain disturbing events concerning which it might not have complete information, but the establishment of a better organized procedure would protect it from the confusion and which might affect its activities in emergencies.

10. Mr. DIACONU said that it was useful to review the Sub-Commission's work in order to rationalize it and to chart its course more effectively. It was necessary to take into account the ongoing changes in the world which also affected the approach to human rights issues. The debate on those issues was no longer dominated by the East-West confrontation; the problem of individual freedoms in the traditional sense was being resolved nearly everywhere, and the main difficulties now stemmed from economic disparities and poverty, which were the principal obstacles to the exercise of human rights. The Under-Secretary-General, in his excellent statement on agenda item 3, had emphasized the problems of equality and non-discrimination, which were occupying an ever-larger place in the Sub-Commission's work. The problem was not one of achieving equality, but of reducing the inequalities stemming from the economic situation and impeding the enjoyment of human rights. The Sub-Commission must redirect its activities, since human rights questions nowadays tended to reflect the problems of North-South relations, and certain issues to which the Sub-Commission had given too much attention (for example, the situation of detainees) should give way to problems caused by underdevelopment.

11. Minorities and communities linked by language, religion, or another decisive factor, also deserved particular attention from the Sub-Commission. The solutions might not lie in economic development, a measure of economic and social levelling and forms of integration. Experience in fact showed that

minorities maintained and even strengthened their identity. Thus a new balance must be struck between the rights and obligations of each group in a given country. The most suitable setting for such efforts was the United Nations and the pitfalls to be avoided were, on the one hand, cosmopolitanism, which would establish a world State and imperialism, which would only revive monsters already consigned to the dustbin of history.

12. The Sub-Commission usually embarked on studies when their subject-matter was of topical interest and completed them when it had become merely theoretical. The study on the right to leave one's country was such an example. The problem was one which was no longer topical, since nowadays there were hardly any restrictions on that right. There were, however, problems in respect of the right to enter or re-enter another country; the very existence of that right was still contested and would be a subject for a constructive study. The Sub-Commission should be more realistic and concern itself with the real problems of the contemporary world. It should also give careful consideration to its studies and projects before submitting them to the Commission, and should make greater use of the working groups, whose role was far more important than that of statements and monologues in plenary meetings.

13. Regarding the information available to the Sub-Commission for its activities, non-governmental or intergovernmental organizations and other sources of information should be more alive to their responsibilities and should not give too much attention to minor events or sensational aspects which might obscure the true picture.

14. The Commission's recommendations concerning duplication of work should be taken seriously, if the Commission did not always seem to be fully in agreement within itself. Once again, the 1982 Secretariat note should help to clarify the Sub-Commission's mandate.

15. On the question of emergencies, where circumspection was the rule, he did not think that the Sub-Commission was called upon to intervene in events occurring during a session lasting only four weeks, since it would then run the risk of not discharging its mandate which was not limited to current events. In the case of a territory being occupied, for example, any occupation was a violation of human rights, whenever it took place. The Sub-Commission's task was to concern itself with phenomena that had serious consequences, caused suffering to millions of people and which had sometimes become so familiar that no one thought of discussing them.

16. In conclusion, he hoped that the Sub-Commission would adjust to the new realities and so perform useful work in the present-day world, in the essential framework of international co-operation.

17. Mrs. KSENTINI said that the organization and rationalization of the Sub-Commission's work was a very important question which deserved careful consideration, as the Commission on Human Rights requested every year. Some of the Commission's criticism of the Sub-Commission might be justified, but the answer to the Commission's concern was bound up with the question of whether the Sub-Commission was a body with its own means of action and thus able to take initiatives or whether it was simply an organ responsible for preparing the work of the Commission, which alone was able to take decisions. Before criticizing, the Commission should spell out the Sub-Commission's exact

role and prerogatives. The Sub-Commission could itself make recommendations on the way in which it interpreted its terms of reference in the light of the development of its activities, which had led it to amplify its means of action.

18. On the other hand, the question arose of why the Commission criticized the Sub-Commission, since it invariably approved the Sub-Commission's recommendations, and gave it no guidance or practical advice on its work. The difficulties facing the Sub-Commission were in fact inherent in all human rights organizations, all of which had different methods of work and action that were difficult to rationalize. There were various mechanisms for protecting human rights, either institutional or conventional, and it would be useful to know whether the two systems should be separated. All those issues needed serious consideration in all the human rights organizations, as well as in the Commission itself. The Commission had started considering ways of rationalizing its own working methods and the Sub-Commission might usefully take account of any decisions made in that respect.

19. The studies carried out by the Sub-Commission were extremely important and she did not think that they should be reduced in number, because they were perhaps the Sub-Commission's rationale. But there was no doubt that the Sub-Commission should rationalize its methods and devise machinery to evaluate at regular intervals the implementation of the relevant recommendations, as while considering the possibility of updating studies on areas in which the situation had considerably developed. The Sub-Commission should also make sure that a study was feasible before proposing that it should be conducted. She suggested that all the members of the Sub-Commission should be consulted in advance and that draft resolutions calling for the preparation of a study on a particular question should be voted on only when the Sub-Commission had had an opportunity to consider all the proposals relating to studies made in the course of a session. In fact, all studies should be evaluated as and when necessary in order to establish a kind of programme indicating the possibilities of implementing short-term and priority studies in certain sectors which the Sub-Commission had not covered or not covered adequately, and medium-term and long-term studies in other fields.

20. Mrs. MBONU fully supported what Mrs. Ksentini had said. She recognized that the Sub-Commission's agenda was overloaded, but thought that grouping certain items, as Mr. van Boven had suggested, particularly those dealing with the realization of economic, social and cultural rights or those focusing on the protection of vulnerable groups such as indigenous people, victims of apartheid and minorities, would be incompatible with the Sub-Commission's original terms of reference. It would be better, in her opinion, to modify agenda items 10 and 11 in the light of all the studies which had already been carried out on the administration of justice and the independence and impartiality of the judiciary.

21. Mr. HELLER agreed with the decision taken on the consideration of emergency situations, but thought that such matters were outside the Sub-Commission's competence. The existing procedures for considering human rights problems did not allow of a response to such exceptional situations, which had important political implications and came within the competence of other organs. The real point at issue, however, was the inability of the United Nations system to respond effectively to situations of that kind.

22. Regarding agenda item 3, it was dangerous to say that the human rights situation was evolving in a positive manner because of the end of East-West confrontation. Indeed, at the present time, regional conflicts were escalating throughout the world and despite the progress made towards democratization, democratic institutions were still under threat and fundamental freedoms and human rights were not fully respected in many developing countries. Moreover, the Sub-Commission ought not to forget the existence of other phenomena stemming from international relations, such as the problems of migrant workers and refugees.

23. As far as the studies carried out by the Sub-Commission were concerned, it would be interesting to know whether they had produced tangible results and it would therefore be useful to undertake a critical assessment of those results.

24. Mr. GUISSE, speaking for the first time in the Sub-Commission, said that he wished to thank those States which had elected him as a member of the Sub-Commission for the confidence they had placed in him.

25. The Sub-Commission was a technical body, with the clearly-defined task of studying all human rights issues. Some situations were permanent and others temporary, but the recent changes that had occurred in several parts of the world would inevitably have repercussions on the programmes and methods of work of United Nations organs. The Sub-Commission would therefore find it necessary to change the direction of its work, in order to take due account of that evolution.

26. With regard to consideration of emergency situations, the Sub-Commission should be cautious and circumspect in order not to make mistakes which would undermine its credibility, especially since the concept of an emergency was difficult to grasp and controversial.

27. With regard to the conflict in Liberia, he pointed out that the Secretary-General of the United Nations had preferred to leave it to OAU to settle the issue; it was, however, the West African Economic Community (WAEC), a subregional organization, which would attempt to solve the problem, with the assistance of OAU. In order to avoid any duplication, the Sub-Commission should therefore refrain from intervening, and should be content to encourage WAEC in its efforts.

28. Mr. TEITELBAUM (American Association of Jurists) said that, for the organization which he represented, the Sub-Commission was a sort of "committee of wise men" responsible for preparing human rights standards, for considering, in public and in closed session, situations involving violations of human rights, and for suggesting ways and means of putting an end to them. That was clear from the various resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights establishing the Sub-Commission's mandate.

29. However, opinions were divided as to what the Sub-Commission should and should not do. For some, it should merely set standards and refrain from considering human rights violations in order to avoid any politicization of its debates. It rested with members of the Sub-Commission, however, to demonstrate the wisdom and common sense required in order to avoid that danger. Others considered that all human rights situations should be

considered only in closed meetings. Although the confidential procedure had its value, the American Association of Jurists was convinced that publicity was an excellent means of dissuading Governments from violating human rights. In that connection it stressed the importance of implementing Commission on Human Rights resolution 8 (XXIII), paragraphs 2 and 6, and the need to accord greater prominence to agenda item 6.

30. It was true that the work of the Sub-Commission and of the Commission could sometimes overlap, but such overlapping was only apparent, given the very different standpoints of the two bodies: the Commission consisted of State representatives, whereas the Sub-Commission was in the original position of being composed of independent experts.

31. A more important problem was that of the proliferation of the studies made by the Sub-Commission, which could sometimes seem repetitive. It was essential that such studies should have very precise objectives and that they should have an impact on the real situation with regard to the rights to which they related, through active and productive talks in the field between their authors and the authorities and inhabitants of the countries concerned.

32. The American Association of Jurists greatly regretted the adoption, by the Sub-Commission at its previous session, of decision 1989/102, which amounted in fact to increasing from 8 to 12 months the minimum period for a communication submitted under the procedure established by Economic and Social Council resolution 1503 (XLVIII) to reach the Commission on Human Rights. It therefore invited the Sub-Commission to reverse that decision, which only diminished further the questionable effectiveness of the procedure in protecting victims of human rights violations and gave a greater margin of manoeuvre to their perpetrators.

33. The Sub-Commission, which had an irreplaceable role to play in the defence and promotion of human rights, should enjoy, for that purpose, the full support of the Centre for Human Rights. In that connection it was gratifying to note the decision adopted by the Economic and Social Council in May 1990 providing for an increase in the funding of human rights activities, which would make it possible to recruit more staff to help the Sub-Commission and other human rights bodies to do their work.

34. Mr. JOINET thanked Mrs. Ksentini for having raised a problem of real concern not only to the Commission but also to all human rights bodies, since it was likely that in 40 years' time the United Nations would no longer be operating in the same way. He also thanked Mr. Guissé for having stressed the growing and desirable impact of regional and subregional protection. The Sub-Commission must, in fact, encourage regional bodies in their work.

35. With regard to human rights standards, there were, undeniably, still some areas still to be covered, but too many standards should not be set; above all, efforts should be made to enforce existing standards, not only by imposing sanctions on States which did not meet their obligations but also by encouraging and helping them with a view to inducing them to comply.

36. Also a serious defect in relations between the Commission and the Sub-Commission must be stressed. The latter could not have direct recourse to the good offices of the Secretary-General because it was supposed to address

itself only to the Commission on Human Rights; however, the Commission had no existence when it was not in session. The problem was worth thinking about, but such thinking did not concern the Sub-Commission alone.

37. It could not be said that the Sub-Commission was exceeding its mandate. If the Sub-Commission had taken on new tasks, clearly it had very often been at the request of the Commission. It would perhaps be useful to request the Secretary-General to draw up a list recapitulating all the work which the Commission had, over the years, entrusted to the Sub-Commission in various fields.

38. At one time it had been thought that the implementation of the procedures referred to in Economic and Social Council resolution 1503 (XLVIII) and which, it should be said in passing, were not all in keeping with the Sub-Commission's original mandate, would settle all problems and avoid the need for the Sub-Commission to have to concern itself with specific situations. In fact, although the resolution had proved to be useful, it had been much less effective than had been hoped.

39. Unlike those who nostalgically wanted to go back to basics, he did not look back with regret upon the time when the Sub-Commission had worked amidst general indifference and he did not consider that the Sub-Commission had committed a sacrilege by interpreting its mandate in such a way that Governments finally became interested in its activities. Admittedly, everything was not perfect, but although a certain rationalization of the Sub-Commission's work could be envisaged, there should be no intention of restricting the mandate of a body which, by its activity, had helped the United Nations system to move in the right direction.

40. As far as the reliability of information was concerned, he pointed out that in life it was always necessary, at a certain moment, to take decisions even if not all the pertinent information needed for that purpose was available. Members of the Sub-Commission had the advantage of knowing one another well and of holding one another in esteem. The fund of trust existing between them should simplify their work and enable them, in urgent and serious circumstances, to take initiatives without vacillating and without becoming bogged down in procedural battles.

41. Finally, he was gratified to note, on reading the summary records of the Commission, that the exciting debate which the Sub-Commission had had on the question of the secret ballot had been generally well received by the member States of its parent body. If the United Nations system was to adjust to changes in the world situation and to increase its credibility, it was essential that, in bodies consisting of independent experts, secret balloting should become the rule and public balloting the exception, the opposite of what occurred in bodies consisting of State representatives.

42. Mrs. KSENTINI, reverting briefly to the question of the agenda, said that although an effort should be made to rationalize the Sub-Commission's work and, in particular, to consider the dropping of certain agenda items which duplicated others or which had already been dealt with in sufficient depth, the fact that the Commission considered a particular matter should not be a sufficient reason for the Sub-Commission to decide to discontinue its

consideration of it. Throughout the world there were massive and flagrant violations of human rights with which the Sub-Commission must continue to concern itself even if the Commission was also taking an interest in them.

43. Moreover, it was important that when a particular human rights issue was considered, the Sub-Commission should adopt a comprehensive approach and concern itself both with individual rights and with collective rights and pay as much attention to civil and political rights as to economic, social and cultural rights.

44. Finally, in her opinion it would be advisable to reconsider agenda item 4, which was in the process of becoming an "omnibus" item. Most issues which the Sub-Commission did not know what to do with were included under it. Several of them, however, could very well be dealt with under other agenda items.

45. Mr. EIDE expressed his total disagreement with Mr. Diaconu's view that the situation had changed and that from now on priority must be given to the campaign against poverty and the solution of economic and social problems. With the end of ideological confrontations, the international climate had certainly become calmer, but respect for civil and political rights was far from being secured everywhere.

46. In that connection, he had received, some months earlier, a letter from a university teacher in a Latin American country in which the latter had very correctly grasped the problem. Referring to Western aid to Eastern Europe and the Soviet Union, he had pointed out the Western countries had been in the process of withdrawing their aid to countries where capitalism had failed - in other words, the countries of the third world - in order to grant it to countries where socialism had failed - in other words, the countries of the East; he had added that in both cases the failures had been due to the fact that insufficient attention had been paid to individual freedoms, the administration of justice and the security of the individual, in particular. Consequently, it was not by ignoring those issues and by concentrating on economic and social rights that economic and social problems could be expected to be overcome.

47. Furthermore, even in countries where civil and political rights were thought to be generally respected, it was essential to provide guarantees in order to prevent the possibility that those rights could one day be called into question. It was for that purpose that the Council of Europe had adopted the European Convention on Human Rights. In order to be able to create the economic and social conditions necessary for the elimination of poverty, concern must continue to be shown for civil and political rights.

48. Mr. CHERNICHENKO said that, in order to rationalize the Sub-Commission's work, it might be necessary to decide to consider only every other year agenda items 7 and 8, which could, moreover, be merged, and agenda item 3.

49. In the effort to contain the increase in the number of resolutions, it would be unrealistic to try to limit arbitrarily the number of resolutions adopted at each session. However, it could perhaps be suggested that beyond a certain number of draft resolutions the Chairman should consult the sponsors to see whether they could not withdraw them.

50. The Sub-Commission had, in fact, a very precise mandate, but there was sometimes a tendency to forget it. Three or four years earlier he had participated, within the Commission, in the elaboration of a document submitted to the Economic and Social Council in which the mandates of the Commission and of the Sub-Commission had been briefly set forth. It might be helpful to refer to that document, which had been drawn up on the basis of resolutions adopted by the Economic and Social Council and by the Commission on Human Rights.

51. Nevertheless, a mandate, however precise, still left a certain margin of interpretation, and part of the competence which a body was recognized to have was, in fact, always implicit. In the case of the Sub-Commission, the question that currently arose was whether its mandate permitted it to react promptly to emergency situations in the field of human rights. At the risk of repeating himself, he reaffirmed his opinion that the Sub-Commission's main task was to prepare human rights standards. It should avoid adopting decisions or resolutions on specific situations in particular countries, since that was the province of the Commission, and it should restrict itself to working out methods to enable the Commission to consider those situations.

52. Although he was confident that the Sub-Commission could not play such a role, he nevertheless recognized that there ought to be - as was the case with the Security Council, which could intervene at any moment, especially when peace was threatened - a specific permanent mechanism permitting a prompt reaction in the case of violations of human rights. The Bureau of the Commission could perhaps discharge that function between sessions and study the possibility of appointing a special rapporteur of the Commission to concern himself with violations ascertained around the world.

53. Mr. SABOIA said that the Sub-Commission must give careful consideration to the comments which the Commission had made on the subject of its methods of work.

54. To be sure, he readily agreed with Mr. Joinet that, through the effects of a whole series of decisions taken both by the Commission and by the Sub-Commission, the Sub-Commission's mandate had been somewhat enlarged and, in a sense, enriched. However, the time had come for the Sub-Commission to consider rationalizing its work, in particular by endeavouring to lighten its agenda, and to review the practice of constantly requesting the preparation of new reports. It would also need to try to have less systematic recourse to the adoption of resolutions on specific situations, which sometimes duplicated those of the Commission and might give a political turn to its work and thus compromise its credibility and independence.

55. Another important point concerned the nature of the Sub-Commission's work. The relaxation of tensions in the world, the progressive removal of obstacles to the free circulation of persons and the recognition, in a growing number of countries, of the right to freedom of expression, as well as the strengthening of democratic institutions, particularly in Latin America, could not fail to have an impact on the role of the United Nations in general and of the Sub-Commission in particular and must lead to reflection on all the obstacles that still impeded the exercise of human rights. In that connection the lack of resources and the differences in standards of living and development between countries constituted, perhaps, one of the major obstacles, since they endangered the enjoyment not only of economic, social

and cultural rights but also of civil and political rights. It must be clearly understood that in a country that was poor and, consequently, prey to frequent social conflicts, it was difficult for the authorities to give all the necessary attention to such matters as the administration of justice and the treatment of detainees. The Sub-Commission must therefore make a thorough study of those questions, which were very important for ensuring respect for human rights.

56. Mr. DIACONU acknowledged that much remained to be done in the field of individual liberties and the administration of justice. He was, however, convinced that in many countries the outstanding problems in that respect would soon be solved, since the democratic process that had been set in motion was irreversible.

57. The Sub-Commission could, moreover, very well consider both civil and political rights and economic, social and cultural rights, since one set of rights did not exclude the other. There was, however, no doubt that the question of economic, social and cultural rights would assume increasing importance everywhere in the world, and the Sub-Commission would have to take that into account.

58. Mr. SUESCUN said that it was essential to redefine the Sub-Commission's mandate clearly. The most simple course would be for the Sub-Commission to do that itself and to set up a working group for the purpose.

59. Furthermore, since it was generally acknowledged that political rights and economic rights were inseparable and that the introduction of instruments to promote and guarantee respect for the rights to life, freedom, and security represented the most dynamic aspect of the modern conception of human rights, he suggested that a seventh topic, concerned with fundamental freedoms and instruments to promote human rights, should be added to the list of the six major topics for discussion proposed by Mr. van Boven.

60. Coming from a developing country, he was perfectly aware of the weight of economic problems and of the dramatic consequences of a profoundly unjust international economic order. He was, however, also aware that other phenomena such as authoritarianism, both in institutions and in people's minds, political or religious fanaticism, racism and the cult of force also endangered the exercise of human rights. The Sub-Commission should therefore consider human rights problems from a new comprehensive standpoint and to work out new methods to enable its members to co-operate as closely as possible.

61. Mrs. KSENTINI agreed with Mr. Chernichenko that the responsibilities of the Sub-Commission were not only those set out in the original mandate assigned to it by the Commission on Human Rights and the Economic and Social Council, but also those which the Commission on Human Rights had subsequently requested it to assume in various resolutions giving it competence to deal with particular issues. Those responsibilities could also have been modified by resolutions which the Sub-Commission itself had recommended for adoption by the Commission and which the Commission had confirmed.

62. With regard to Mr. Chernichenko's proposal that the item concerning the new international economic order be deleted from the agenda or retained as an item linked to the item on the realization of economic, social and cultural rights, to be considered only every other year, in her opinion the two items concerned were precisely those which made it possible to deal with all aspects

of human rights; it would be regrettable to merge them and to consider them only every two years. The question of the new international economic order had already been debated at the previous session, and on 30 August 1989, the Sub-Commission, reversing a previous decision, had adopted resolution 1989/1, deciding that such an important item should be considered every year. In that connection, she pointed out that a mistake had found its way into the French version of paragraph 104 of document E/CN.4/Sub.2/1990/1/Add.1, indicating that the Sub-Commission had decided that the item would be considered every two years. She asked for the mistake to be rectified.

63. Mr. JOINET, expanding upon his earlier statement concerning the question of reliability raised by Mr. van Boven, said that the Sub-Commission would never be absolutely certain as to the truth of the information supplied to it. That was why, whereas the language of the law referred to "accusations", the United Nations referred only to "allegations". It was the evaluation of the validity of the allegations that determined decisions, and that was why, whenever possible, it was advisable to hear at least the two main parties involved. It was true that sometimes certain non-governmental organizations exaggerated, but victims did not exaggerate in bad faith, since very often they were caught up in such a context of oppression that to exaggerate was a way of making their appeal for help better understood.

64. Also, Governments had a natural reluctance to acknowledge the validity of allegations made against them, which they denied or tried to play down. The Sub-Commission had had many examples of that. Even if there were exaggerations on the one side and omissions on the other, the best way of taking a well-founded decision was to hear both parties involved and to try to make allowances.

65. Mr. SADI, referring to the discussion on the new international economic order and the realization of economic, social and cultural rights and their connections with human rights as the subject-matter of the Sub-Commission's work, pointed out that there were two covenants, one concerned with civil and political rights and the other with economic, social and cultural rights, which had respectively given rise to different bodies of experts that worked independently of one another. That in no way altered the universal recognition of the fact that links existed between those different sets of rights.

66. Actually, for most countries in the world, the realization of economic and social rights was an urgent matter and was considered to be an essential prerequisite for the realization of the other rights. He was therefore not at all inclined to belittle the importance of the economic and social aspects of human rights, and he hoped that the proposal that those rights be considered bienially would be rejected.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5 (a)) (E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1990/50)

67. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that measures to combat racism and racial discrimination and, in particular, its most insidious and institutionalized form, apartheid, had always been given high priority by the Sub-Commission since the item had been included in its

agenda in 1978. That priority was particularly justified, since racism and racial discrimination constituted fundamental denials of basic human dignity.

68. In order to strengthen the campaign against those two scourges, the General Assembly had proclaimed 1983-1993 the Second Decade to Combat Racism and Racial Discrimination and had approved an extensive programme of activities for that period, of which the elimination of apartheid constituted one of the prime objectives. In that connection mention should be made of the progress achieved since the adoption by the General Assembly, on 14 December 1989, of the Declaration on Apartheid and its Destructive Consequences in Southern Africa. Having been requested to implement the measures provided for in the Declaration and to report to the General Assembly on 10 July 1990, the Secretary-General had appointed a Team of senior United Nations officials to visit South Africa in June 1990 to obtain first-hand information on the latest developments in the country and to meet members of the Government and representatives of political parties and movements and concerned organizations. The Team's report, which was contained in annex I to the Secretary-General's report to the General Assembly (A/44/960) had also been submitted to the Sub-Commission for its information. In view of recent developments in South Africa, there were grounds for hoping that the country was entering upon an era of peace and profound change.

69. The recent improvement in the political climate in most regions of the globe could not have taken place without the patient efforts of the international community within the United Nations system. The Centre for Human Rights had organized two seminars in 1989 in the context of the Programme of Action for the Second Decade. It also intended to focus attention on the root causes of racism through a seminar, scheduled for October 1990, on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid.

70. The Commission, to which the Sub-Commission had decided, in 1989, to refer the final report of its Special Rapporteur, Mr. Eide, on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1), had decided to place the report before the General Assembly at its forty-fifth session and had recommended that it should be published and widely circulated. The Sub-Commission was called upon to continue its review of its activities under the agenda item under consideration, particularly the recommendations made by its Special Rapporteur.

71. Mr. van BOVEN, speaking on a point of order, asked whether the Secretary-General's report mentioned by Mr. Nyamekye, whose annex contained the report of the Team which had visited South Africa, could be distributed to members of the Sub-Commission.

72. Mrs. WARZAZI observed that the Sub-Commission, which had enlarged its field of action since 1965 pursuant to requests by the Commission on Human Rights, would again have to focus a great part of its efforts on the campaign against discrimination and on the protection of minorities. In fact, a number of studies made by the Sub-Commission thus far had met the concerns expressed, particularly by Western countries. That had been the case, for example, with the studies on such matters as freedom of information, the death penalty, and the right of asylum. Those studies had been aimed at countries which had

since put an end to the reign of arbitrariness and oppression and had recognized the rights proclaimed by the international community, particularly the political rights to which the Western world attached so much importance.

73. Today, however, it was acknowledged that, in order to consolidate the nascent democracies, their populations must be guaranteed a minimum of well-being and security. Furthermore, freedom, so dearly acquired, must be the same for everyone, and it was therefore important to protect minorities and to campaign even more tenaciously against racism, its causes and its consequences. Day after day the media informed the public of the acts of violence caused by xenophobia, racism and racial hatred. In some countries the situation was very serious. The African continent was the scene of barbaric acts, and what was happening in Liberia was a source of consternation and shame for all Africans. In other regions it was the countries having large numbers of immigrant workers that gave rise to the greatest concern, and the Sub-Commission had a duty to consider those problems. Admittedly, efforts were being made in many countries to try to improve the lot of immigrant workers, but in Europe, following the increase in racist crimes in some countries, in March 1990 European deputies, considering national legislation to protect minorities and foreigners to be inadequate, had requested EEC member States to introduce firmer provisions to combat racism and xenophobia.

74. That might not be sufficient, as was shown by a survey which had been produced by a representative of the British Labour Party in the European Parliament and published by the latter. According to the survey the largest number of self-avowed racists was to be found in Belgium and the Federal Republic of Germany, but racial violence and hatred in those two countries were nothing in comparison with the levels attained in France, the United Kingdom and Italy. The survey also stressed the leniency shown by the courts towards the perpetrators of racist murders and even expressed concern regarding the relationship reported to exist in one country between the perpetrators of racist outrages, often belonging to tiny groups on the extreme right, and the police. As for the United Kingdom, Scotland Yard had enumerated 7,000 acts of racist aggression in 1989, a figure which could be multiplied by 10 given the fact that the victims often did not complain through fear of the police. The survey also pointed out that the extreme right had prepared a video game entitled "Treblynka", whose sale was authorized, contrary to the obligations entered into by the United Kingdom Government under the Convention on the Elimination of All Forms of Racial Discrimination. In the game the players scored points every time they "killed" Jews, Turks, homosexuals and ecologists. "When the gas has done its work, you will have won", said the game. The game was reported to have already attracted followers in Sweden and the Federal Republic of Germany.

75. She wished to draw attention to the seriousness of racist and xenophobic manifestations, as well as to the astonishing rise of the extreme right in certain States where foreign labour was employed, apparently without causing any real concern on the part of the authorities.

76. The Sub-Commission had a duty to speak out about the horror of a racism that produced victims in Africa and probably in all other continents. As Mr. Khalifa had said, the international community, following the events which had shaken Europe, would have to review its priorities, and the Sub-Commission would have to take up its original mandate more firmly than ever before.

77. Mrs. PALLEY said that her statement would deal exclusively with the role of the Sub-Commission in the elimination of racial discrimination in South Africa. In that connection an immediate effort should be made to carry out a task of crucial importance by supplying all possible technical assistance for drawing up constitutions and human rights standards and for making institutional arrangements to determine the physiognomy of the future South Africa. The Centre for Human Rights and the Sub-Commission constituted a vast reservoir of specialized knowledge which should be made available to all those working to eliminate apartheid and to set up a free society of equal individuals. She was thinking in particular of the knowledge to be found among the expert jurists of the Sub-Commission, for setting standards in all pertinent fields.

78. The rights of the indigenous peoples in South Africa constituted a second area in which the Sub-Commission possessed a great deal of knowledge and with which it had not yet concerned itself. In her view, United Nations assistance in those two areas was essential and urgently required. Consequently, despite the recommendation that the number of resolutions and decisions should not be increased, she would present one reading as follows: "At its ... meeting on ... August 1990, the Sub-Commission, mindful of the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted on 14 December 1989 by the General Assembly at it sixteenth special session, decided to recommend to the Secretary-General, as a matter of the highest priority, that technical assistance be offered, from the programme of advisory services in the field of human rights, to those seeking a peaceful and negotiated end to apartheid and the establishment of a genuinely unified, democratic, non-racial society, including liberation movements, mass democratic organizations and trade union associations in consultation with other agencies of the United Nations system."

79. Mr. ALFONSO MARTÍNEZ asked the Chairman whether he had any information on the subject of the Mohawks in Canada, which had been dealt with as an urgent matter on the previous day.

80. The CHAIRMAN replied that he did not yet have any information on the subject.

The meeting rose at 1.10 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 9 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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The meeting was called to order at 10.40 a.m.

STATEMENT BY THE CHAIRMAN

1. The CHAIRMAN said that, following the discussion at the third meeting of the Sub-Commission about the dispute between the Mohawks and the Quebec authorities, the representative of Canada had requested a meeting with the Chairman of the Sub-Commission, the Chairman of the Working Group on Indigenous Populations, and representatives of the Secretary-General. At the meeting, the representative of Canada had read out an announcement by the Prime Minister of Canada according to which the Canadian armed forces would respond, in a non-confrontational manner, to the request of the Premier of Quebec for support to end the dispute. The Government of Canada had further indicated that the aim of that response was to stabilize the situation and ensure a peaceful negotiated solution. The Prime Minister of Canada had also requested the Chief Justice of the Quebec Superior Court to mediate in the dispute and to approach the parties with a view to persuading them to continue negotiations. According to the information received by the Government of Canada, the Mohawk representatives would be willing to participate in such a mediation effort.

2. The representative of Canada had offered to provide the members of the Sub-Commission with the text of the Prime Minister's statement and had reiterated his intention to keep the Chairman of the Sub-Commission, the Chairman of the Working Group and the Secretary-General informed about his Government's efforts to ensure a peaceful negotiated solution to the dispute, in a manner that would respect the human rights of all the persons concerned.

3. Needless to say, in accordance with the wishes of the Sub-Commission, the Chairman and the Bureau would continue to follow the situation and would communicate any further information to the Sub-Commission without delay.

4. Mr. ALFONSO MARTÍNEZ recalled that, on the previous day, he had requested the Chairman to keep the Sub-Commission abreast of the affair. He therefore welcomed the information just communicated which was encouraging, for it showed the willingness of the parties to negotiate, giving grounds for hope that they would avoid any action which might exacerbate the problem and that their efforts to reach an agreement would succeed.

5. Mr. SADI said he welcomed with relief the information just given to the Sub-Commission and noted that there had been no mention of the term "ultimatum", used on the previous day, which had caused him great alarm. He therefore hoped that the negotiations would begin and that the situation would take a satisfactory turn.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1990/50) (continued)

6. Mr. KHALIFA said that he could generally concur with all the recommendations contained in Mr. Eide's report (E/CN.4/Sub.2/1989/8 and Add.1). If he did have a minor reservation, it would perhaps be that the study seemed sometimes to have gone beyond its boundaries to deal essentially with the problems of minorities and possible means of alleviating them.

Racism and the problems of minorities could indeed overlap, but the notion of a minority had its own autonomy. The recommendations contained in paragraphs 445/24 and 445/29 of the addendum to the report were examples of how the Special Rapporteur had sometimes felt the urge to deal with minorities in general without necessarily linking their problems to racism.

7. In any event, despite the proclamation of two decades to combat racism, racism was still alive and well. As a result of recent world events, there had been a resurgence of racism in its ugliest forms.

8. There was no doubt that the Sub-Commission, as a human rights body, was partly responsible for the 1989 revolution, because the new awareness of human rights should be ranked first in any analysis of that historic explosion. The ever-widening technological and economic gap between capitalist and communist States had played a role, but the peoples of Eastern Europe had essentially risen up against tyranny and the denial of civil and political rights. Unfortunately, that formidable movement which had begun with the cry of "freedom" would very likely lead ultimately to violations of human rights, particularly in the form of racial discrimination. That was not only a side-effect of the revival of nationalism and ethnic feuds but also more global owing to the resurgence of the ugly racial prejudice which the world knew in the past as the "white man's mission".

9. With the cry of "freedom" sent up by Eastern Europe, the biggest auction sale in the history of mankind had begun - the sale of the Western brand of democracy to the rest of the world. Liberal democracy, it was true, had scored a victory over Marxism, but it should not be forgotten that the path away from Marxism did not necessarily lead to liberal democracy and its corollaries of the capital market and free enterprise. Choices would have to be made which were greatly influenced by history and cultural roots; egocentricity and self-interest should not prompt the West to export its own model to the four corners of the globe under the pretext of its universality. Democracy loathed imposed models, and the West should not seek to force other nations to adopt its own. Most of the Latin American countries, for example, had had democratic constitutions and had recognized private property for more than a century and a half; it might therefore be asked why that had failed to generate success and why such recipes would produce a miracle in Eastern Europe, where socialism had failed and capitalism might fail too. The United States model of success, the real participation of Americans in their political life, and the working of the free-market system had been built up naturally over more than 200 years.

10. In fact, it could be said that the slogan of "freedom for all" had carried with it from the outset the germs of hypocrisy, egocentricity and self-interest which would make the rest of the world a prey to economic invasion, influence, infiltration and manipulation to secure the domination of easy markets. The Sub-Commission's experts should not hesitate to ask themselves what might be the impact of such colossal changes on what mattered most: the human rights of peoples and individuals.

11. The era was at hand when superiority would be measured by economic achievements, an era dominated by economic super-Powers. The last decade of the century would certainly be the decade of the privileged. The countries of Eastern Europe, with the possible exception of East Germany, had enormous problems, with high inflation, unemployment, ethnic and religious feuds, and

nationalist rivalries. The socialist countries of Europe would probably, however, receive aid and would ultimately take their places beside their European brethren. That would be the case of the European republics of the Soviet Union, while its Asian republics, in contrast, would no doubt suffer the fate of the other countries of the third world and be relegated to the bottom of the priority list and reduced merely to markets. China would always be a prime target, since it represented too large and lucrative a market for the Western giants to leave it in peace.

12. Thus the sources of conflict would henceforth be economic. There would still be an East and a West, with the East centred in Tokyo and the West in Washington and Berlin. The rivalry would not be less bitter than when it had been based on political ideology. Needless to say, the East-West confrontation would have heavy racial overtones, which could already be felt. But the resurgence of racism would also result from the widening gap between North and South; for example, the previous evening a senior officer of the French navy had argued on French television that the United States intervention under preparation in the Persian Gulf region was the first North-South conflict.

13. Such indications were extremely worrying, for it might be wondered how the economic super-Powers who had everything would behave towards the rest of the world. According to some estimates, the scaling-down of defence spending would enable the United States to make fabulous savings which might amount to $US 150 billion a year. If the United States used that money to narrow the gap between its élite and its underclasses, human rights watchers throughout the world would certainly rejoice. But they would rejoice even more if the economic super-Powers realized their responsibilities towards the rest of the world and thus contributed to the exercise of the right to development and to solidarity.

14. It had not been his intention to question the high quality of the report before the Sub-Commission, but rather to make some points in connection with the many developments that had occurred since its publication. Moreover, in view of the ominous signs of the rise of the extreme right, the Sub-Commission must monitor the current changes very closely, for a resurgence of nazism, anti-Semitism and anti-Islamism seemed imminent, and preparations must be made for a very hard struggle in which the proclamation of decades and the preparation of studies and reports would not be enough.

15. Mrs. WARZAZI, speaking on a point of order, said that the interpretation into French of the statement just made by Mr. Khalifa had not included his reference to anti-Islamism.

16. Mr. EIDE recalled the amply demonstrated European origins of racism, the most pernicious forms of which were anti-Semitism and, more recently, hostility towards people from North Africa and other migrant workers. Far from having been removed, the danger of racism was threatening anew: the rise of the extreme right and virulent nationalism and the collapse of socialism had brought with them some alarming examples of racism. When he had observed in his report (E/CN.4/Sub.2/1989/8) that the "scientific" racist doctrines had been born in Europe and had enabled people of European descent settled in other continents, in South Africa for example, to engage in the brutal repression of the indigenous populations, he had wanted to prevent Europe from indulging complacently in a selective recall of the very concept of the

defence of human rights, which had been born and nurtured in Europe and of which Europe could be legitimately proud. The whole world was currently affected by a modern type of racism which could be seen in Liberia, Sri Lanka and elsewhere and which called for the greatest vigilance on the part of the international community.

17. Through lack of vigilance, the Europe of the 1930s had ignored the signs accompanying the rise of nazism and had then had to bear the disastrous consequences of its own indifference. Those thoughts about the past were all the more to the point when the same tragedy was currently being played out elsewhere in the world. A new nationalism was seeking its "lebensraum" and to appropriate the resources of another country. There again, there had been no shortage of premonitory signs, and the tragedy had been preceded by a long period of violations of human rights. In one of its 1989 resolutions, the Sub-Commission had indeed drawn the attention of the Commission to the situation of human rights in the country in question, but the Commission had unfortunately taken no action. That incident was of importance, for it cautioned against the tendency to seek excuses for refusing to look certain problems in the face.

18. Turning to the recommendations made in his report (E/CN.4/Sub.2/1989/Add.1, para. 445), he drew attention first of all to recommendation 1 concerning the drafting of a plan for concerted actions to implement the specific measures recommended in the course of the two Decades and recommendation 2 dealing with the strengthening of the function of co-ordination of the Under-Secretary-General for Human Rights. Recommendations 3 and 4 proposed an updating of the study on racial discrimination by Hernán Santa Cruz which would focus on what had been achieved at the national level in different parts of the world and on the scope and effectiveness of affirmative action undertaken within national jurisdictions in order to facilitate equal enjoyment of economic, social, civil and political rights. Social and economic inequalities were in fact increasingly characterized by a clear coincidence between classes and races. In that connection, the United Nations Educational, Scientific and Cultural Organization (UNESCO) should be encouraged to intensify the work already done on the mythology of racial superiority (recommendation 5). While biologists had already contributed significantly to that task, much still remained to be done in the area of the social sciences to discover, for example, what subconscious elements motivated certain rightist forces.

19. The situation in South Africa had undergone significant change since the drafting of the report. A very recent document (A/44/960) reported on the work of a team sent to South Africa by the Secretary-General in June 1990 to assess the progress made in implementing the Declaration on Apartheid and its Devastating Consequences in southern Africa. In that document, the Secretary-General said that he was very encouraged by the new direction taken since the beginning of the year. It was to be hoped that the Secretary-General's optimism was justified and that a non-racial and democratic State would soon emerge in South Africa. In that connection, the Sub-Commission might make a recommendation, which he had not included in his report, concerning the exceptionally sanguinary Mozambique movement (RENAMO) which, according to the most reliable sources, had been created by the

Rhodesian secret services and had come under the control of South Africa when Rhodesia had acceded to independence as Zimbabwe. For the sake of its own credibility and in order to save human lives, the Sub-Commission might request South Africa to admit openly that it had supported the movement, to dissociate itself from it and its methods, and to state that it would give it no more aid.

20. With regard to the recommendations on indigenous peoples, it should be noted that, despite the reluctance in some quarters, the ILO Convention on that topic represented a considerable step forward, especially if backed by the procedure indicated in recommendation 11. As to recommendation 12, the Working Group presided over by Mrs. Daes was renowned for its diligence, and all that needed to be done was to find the appropriate way of verifying the application of the Declaration on the Rights of Indigenous Peoples. He also wished to underline the importance of his recommendations 15 and 16.

21. Although slavery had long since been abolished, efforts were still needed to remove the social obstacles which some descendants of slaves still encountered. Affirmative action was always desirable in that regard, including the action indicated in recommendation 18, as was action designed to guarantee all social groups the same protection by law enforcement agencies (recommendation 37).

22. The General Assembly already had before it the text of a convention on migrant workers. His report was out of date with regard to the protection of minorities, for the Sub-Commission had already had a new study produced on ethnic groups and minorities.

23. Mr. SACHAR said he wished to draw the Sub-Commission's attention to the case of the persons of Indian descent who constituted 48.6 per cent of the population of Fiji and had been settled there by the British more than 100 years previously. Native Fijians made up 42 per cent of the total population. Following two coups d'état, the population of Indian descent had been deprived of its rights since 1987 and, paradoxically, had only minority status. The new Constitution, which provided for two chambers in which native Fijians would have majority representation and the population of Indian descent would no longer have representation commensurate with its numerical size, had already caused 21,000 persons to leave, and it was to be feared that persons farming land on leases which, under the agrarian act, would expire in 2006, might also be obliged to leave at that time.

24. While the modalities of the implementation of rights might vary from one place to another, the rights as such must not suffer any restriction, either at the national or the global level. Furthermore, contrary to a widely held notion, economic rights did not take precedence over political rights since, if political rights were denied, it was difficult to vindicate one's economic rights.

25. In conclusion, he requested that the Sub-Commission should instruct some of its members to study the general situation in Fiji and the particular cases of racial discrimination against persons of Indian descent listed in a letter addressed to the Centre for Human Rights and to report to the Sub-Commission before the end of the session.

26. Mr. SADI, having thanked Mr. Khalifa for drawing the Commission's attention to contemporary forms of racism, said that, as Mr. Khalifa had quite rightly pointed out, racism took many forms and it was clear that no one - including the experts in the Sub-Commission - was free of racial prejudices. An attempt must therefore be made to determine why. Racism was, in fact, a state of mind which persisted despite all the policies, all the legislation and all the decisions adopted to try to put an end to it. Without attaching too much importance to texts, an attempt must be made to penetrate the human soul and get inside the individual mind in an endeavour to find a solution to that enormous problem. It was not enough merely to repeat everything that had already been said - positive and practical action must be taken.

27. Apartheid alone constituted one of the most important dimensions of racism since it represented the reduction to slavery of an entire people which constituted the majority of its country's population. The fight against apartheid must be continued until it had completely disappeared. By virtue of its extent, the problem warranted a special study.

28. Mrs. KSENTINI said that she agreed with Mr. Khalifa about the serious implications of the upsurge of racism and of the extreme right in the world. Mr. Eide had emphasized that the Europeans had also had to fight against certain forms of racism. They should not therefore forget the fact or take refuge in a narrow and egocentric outlook, judging others by their own values and their own principles. Unfortunately, such a trend was currently apparent in several countries.

29. Migrant workers were the first victims of that trend, together with the refugees who had increasing difficulty in finding asylum in other countries. In many countries, restrictive laws and practices had been adopted with regard to asylum, and regional solutions were invoked as a means of preventing the prosperity of certain developed countries from being jeopardized by a massive influx of people from the South.

30. It was regrettable that the question of migrant workers had not been tackled as it should have been in Mr. Eide's report. The wording of recommendation 21 in paragraph 445 (E/CN.4/Sub.2/1989/8/Add.1) was unacceptable. The recommendation contained a reference to the tensions between migrant workers and the rest of the population but she thought it was not possible to describe the attacks and murders of which migrant workers had been the victims merely as tensions. Moreover, to say that migrant workers should recognize the need to abide by the law and principles of the countries in which they lived was to imply that they were not doing so whereas, as a general rule, migrant workers did abide by such laws. Lastly, the assertion that migrant communities could maintain their cultural traditions and practices as far as that was compatible with internationally recognized human rights was tantamount to an allegation that their values ran counter to human rights. That might be true in a few instances such as female circumcision, but such statements in a report gave the impression that some extreme-right attitudes were justified. She hoped therefore that Mr. Eide would reconsider the wording he had used.

31. The Sub-Commission should study ways of resolving the problems posed by such new forms of racism. Pending the adoption and entry into force of the International Convention on the Protection of the Rights of all Migrant Workers and Their Families, the Secretary-General might appoint a special representative to study those new phenomena and report thereon to the Sub-Commission, the Commission and the General Assembly.

32. Ms. PALLEY said that the right to self-determination, the right to vote in a democracy and the right to non-discrimination were all extremely important and closely linked rights, to which attention must be paid, when considering agenda item 5, in connection with demographic manipulation, a new term for the enforced movements of populations organized by certain States in order to change the demographic composition of a territory, in flagrant violation of international law and human rights.

33. That was what Turkey had done in Cyprus, whose territory it had invaded in 1974 on the pretext of violation of a treaty of guarantee imposed on Cyprus in 1951 by the United Kingdom, Greece and Turkey. Following the invasion, 180,000 Greek Cypriots had had to flee the region occupied by the Turkish forces. The Turkish Government had insisted that all the Turkish Cypriots from the non-occupied south should resettle in the occupied north of the island and it had then encouraged mainland Turks to go and settle there. There were currently more Turkish settlers than Turkish Cypriots in the north of the island, for many of the latter had subsequently emigrated. The Turkish Government was thus seeking to make the occupied zone an integral part of Turkey. The negotiations between the two Cypriot communities had reached a deadlock owing to the conditions imposed by the leaders of the Turkish Cypriot community, who demanded the prior recognition of the "Turkish Republic of North Cyprus" and of the Turkish Cypriots as a people. They were, in fact, trying to create a new form of apartheid by permanently separating two ethnic communities living in the same territory.

34. It was the duty of the Sub-Commission to condemn all forms of demographic manipulation and the creation of settlements, whether in occupied territories or in areas which should be controlled by the local ethnic population. That was a question of principle, and the interests of certain States should not take precedence over human rights. Moreover, such population movements had disastrous consequences for many States throughout the world.

35. She sincerely hoped therefore that the international community as a whole and the Sub-Commission in particular would reaffirm the principle that demographic manipulation, no matter what State was responsible or where it occurred, was unacceptable and must be unreservedly condemned.

36. Mr. GUISSE said that, though he was grateful to Mr. Eide for his hard work, there was a danger that his very comprehensive report might lead to a confusion of several different problems. The problems of minorities and of migrant workers were given equal attention in the report, so that the key question of racism and racial discrimination seemed relegated to second place. Furthermore, apartheid was a special case, and the fact that it was being dismantled did not mean that racism, intolerance and racial prejudices were on the retreat in the world. Racism was in fact growing constantly stronger, as the situation of refugees in many countries demonstrated, for they were often rejected on account of their race.

37. Moreoever, the weapon wielded by the developed countries when they tied economic aid to the developing countries to their respect for human rights was an extremely dangerous one, for it might strike a blow at the sacrosanct principles of national sovereignty and non-interference in the internal affairs of States. By using that weapon, the developed countries were themselves showing discrimination, and that could not enhance the promotion and protection of human rights. They should therefore lay down that weapon and seek other ways of helping the developing countries to improve their observance of human rights.

38. Mr. van WALT (Pax Christi International) said he wished to draw the Sub-Commission's attention to the particularly injurious practice of population transfer, which was often born out of racism and almost always led to systematic discrimination, in violation of the rights laid down in all the international instruments on human rights. Numerous Governments had implemented policies designed to displace or relocate certain population groups by force; it had been done, for example, by the Israeli Government in the occupied territories, by the Chinese Government in Tibet, Xinjiang and Inner Mongolia, by the Indonesian Government in East Timor and West Irian, by the Government of the USSR in the Baltic Republics, by the Government of Bangladesh in the Chittagong Hills Tract, by the Iraqi Government with respect to the Kurdish people and the Arabic Shiah tribes, by the Government of Sri Lanka with respect to the Tamil people, and by the Government of South Africa with respect to the black population.

39. Such policies constituted a flagrant violation of the provisions of articles 41 and 49 of the Fourth Geneva Convention of 1949. Even when the territories in question were legally occupied, transfers of population violated the right of the peoples concerned to self-determination, which was recognized in all the international instruments. In Tibet, for example, the occupation of the territory by millions of Chinese since 1959 had deprived the Tibetans of any control over their natural and economic resources, their cultural heritage and their right to determine their own future. Similarly, in Palestine and Kurdistan, the peoples subject to foreign domination were treated as second-class citizens in their own countries and were discriminated against with regard to housing, employment, education and health care, while their cultural and language traditions were shown scant respect. Moreoever, persons who were relocated were themselves victims of violations of their fundamental rights, as in the case of the hundreds of thousands of Kurds displaced by the Iraqi Government at the end of the 1980s in an endeavour to break Kurdish resistance. Finally, the transfer of populations raised the question of genocide under the terms of article 2 of the Convention on the Prevention and Suppression of the Crime of Genocide, according to which genocide was an act committed with the intention of destroying, entirely or in part, a national, ethnic, racial or religious group.

40. His organization therefore requested the Sub-Commission to undertake a detailed study of past and current policies of population transfer and their effects on the rights of the peoples concerned.

41. Mr. PATAUT (International Federation of Human Rights) said that many States had not yet enacted legislation to enable them to combat racism and racial discrimination effectively, even though most of them were parties to

the International Convention on the Elimination of all Forms of Racial Discrimination. That was true, in particular, of some States of Eastern Europe, where, despite the recent positive changes, racism, racial discrimination and anti-Semitism persisted and were openly displayed, often in an extremely violent way. For example, his organization had learned recently that, in Czechoslovakia, acts of racist violence against Vietnamese workers had become very frequent since the beginning of 1990. The acts it had investigated had usually been committed by organized groups flaunting a Nazi ideology and accusing the members of the Vietnamese community of unlawful activities. All such allegations had, however, been denied by the Government of Czechoslovakia.

42. The Federation believed that such recent manifestations of racism in Eastern Europe formed part of the general context of changes in the economic system which aroused fears about the future and unemployment. It had noted yet again, however, that the main cause of racism lay in communities' deep lack of understanding of each other. To revert to the example of Czechoslovakia, the Vietnamese were almost completely isolated and had not been informed at all about the political developments in their host country since November 1989. That example demonstrated the importance of preventive action, just as much as repressive action, in combating cultural prejudices effectively. In that regard, in paragraph 445/21 of his report (E/CN.4/Sub.2/1989/8/Add.1) the Special Rapporteur rightly stressed the need for intensified efforts to advance cultural understanding and, in paragraph 445/2, that the specialized agencies should be encouraged to develop more comprehensive plans within their functional field of competence and to improve their contacts with local non-governmental organizations.

43. The Sub-Commission might initiate a new phase by not merely encouraging States to enact the necessary legislation but also by furnishing them with the means to do so, in the form of technical assistance for example, in collaboration with non-governmental organizations and the specialized agencies of the United Nations system.

44. Mr. BARSH (Four Directions Council) said that his organization fully endorsed the comments made by the Special Rapporteur and thought that the most flagrant contemporary example of official racism was the denial to indigenous populations of the right to self-determination when all other peoples were able to exercise that right.

45. There was a close relationship between racism and the economic situation: manifestations of racism were often a reflection of the structural and deep-rooted causes of economic stagnation. In the United States, for example, there had been racial conflicts for centuries, but the target groups shifted with the successive waves of immigrants, changing economic structures, the employment situation, and the internal migrations of workers. The current conflicts were always of the same kind, as was demonstrated by the disputes over fishing rights in one of the states of the Union between indigenous and non-indigenous populations. That was not a typical case of intolerance but rather of competing economic claims in a region of the United States where there were serious difficulties connected with the decline of agriculture and the rise of industry.

46. In Canada too, economic conflicts due to unemployment and the arrival of new immigrants seeking jobs degenerated very quickly into racial or ethnic conflicts. In Quebec in particular, nationalism and separatism stemmed from a sense of economic exploitation by English-speaking Canada. Quebec nationalists also found themselves currently in confrontation with the indigenous peoples occupying most of the northern part of the province with its abundant natural resources, a situation which had led to disproportionate displays of force and to intolerance directed against some Indian communities.

47. In Europe, too, the migrant workers accused of taking jobs which ought to go to local workers were victims of a racism resulting from economic insecurity.

48. Although the Governments of most of the countries concerned had taken steps to combat the phenomenon, it must be said that the legislation forbidding discrimination and even educational measures were insufficient to overcome the economic self-interest of the various population groups in question. Racism was closely tied to the struggle over resources, and the prevention of racism and racial discrimination must include measures to guarantee the economic equality and security of all population groups.

49. The creation of a non-racist society thus depended on at least two conditions: equalizing the well-being of all the groups in society and improving the well-being of the national society as a whole. Those two conditions depended in turn on international economic relations and national macro-economic policies.

50. It seemed that, in the United Nations Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, greater emphasis was placed on high-level discussions than on direct practical assistance, and that was not the best way of using the Organization's resources. Furthermore, the measures envisaged for the second Decade should be applied system-wide and not be regarded merely as a sub-programme of the Centre for Human Rights. It was to be hoped that the planned world conference on human rights would provide an opportunity to reassess the effectiveness of the current programmes for the protection of human rights and identify new ways of achieving the goals of a possible third Decade.

51. Mr. WIRAJUDA (Observer for Indonesia), making a statement equivalent to a right of reply, said that the representative of Pax Christi International had made unsubstantiated allegations about the population-transfer policies supposedly carried out by the Government of Indonesia in East Timor and West Irian. Those allegations indicated, in particular, a lack of elementary knowledge of the region, for since the liberation of Indonesia from Dutch colonial domination, West Irian had been an integral part of Indonesian territory. Furthermore, the migration programme in that province, like those in Sumatra and Borneo, formed part of the country's overall economic development plan and was not motivated by racist considerations. Indeed, in the implementation of that programme, Indonesia received the assistance and co-operation of international organizations such as the World Bank, as well as contributions from other States. Moreover, the programme remained a national policy which the Republic of Indonesia was entitled to carry out in full sovereignty.

52. The representative of Pax Christi International had also referred to so-called population transfers in East Timor; his delegation would like that representative to furnish specific evidence. Population movements in East Timor were merely the result of Indonesia's policy of openness for, since January 1989, East Timor had had the same status as the country's other provinces, and all Indonesian citizens were free to go and settle there, just as all citizens born in East Timor were free to settle in other provinces.

53. Accordingly, his delegation categorically rejected the unsubstantiated allegations that had been made, and which could only have been racially motivated.

54. Mr. JOINET said that he understood the reaction of the Observer from Indonesia to allegations that had not been substantiated. However, he thought that it would be better, to avoid any misunderstanding, if non-governmental organizations were authorized to go to Indonesia to assess the situation for themselves, since their past requests for such authorization had not always been met.

55. Mr. CISSE (Secretary of the Sub-Commission), replying to the questions asked by some members of the Sub-Commission about the participation of members in the current session, said that only Mr. Al-Khasawneh and Mr. Rivas Posada were represented by their alternates, Mr. Sadi and Mr. Suescún respectively. In addition, Ms. Bautista had informed the Secretariat that she would not be able to attend the session until 15 August 1990, while Mr. Ilkahanaf had indicated that he was about to leave for Geneva.

The meeting rose at 1.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 10 August 1990, at 10 a.m.

Chairman: Mr. TURK
later: Mr. TREAT

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GE.90-12654/2523B

The meeting was called to order at 10.15 a.m.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued) (E/CN.4/Sub.2/1990/2)

1. Mr. ALFONSO MARTINEZ said that his main concern with regard to agenda item 3 was the large number of documents which the experts were called upon to examine and which had been increasing every year and had now taken on gigantic proportions. In that connection, it would be helpful if the Secretariat could, within the limits of its resources, facilitate the task of the experts, who did not all have assistants, by, for example, placing at their disposal premises or offices containing word-processing equipment, which would help to solve many practical difficulties.

2. Another matter to which close attention should be given, as Mr. van Boven had already pointed out, was the increasing number of items on the Sub-Commission's agenda and the imbalance in its programme of work. To rectify that state of affairs, which was encountered every year, the Sub-Commission might decide to consider some items on a biennial or triennial basis. It might also consider the possibility of dividing its agenda into two main parts, one on questions relating to civil and political rights and the other on questions relating to economic, social and cultural rights. That could in no way be regarded as inconsistent with the principle which the United Nations had upheld for more than 20 years and which had been affirmed, in particular, in General Assembly resolution 32/130, namely, that all human rights were interdependent and indissociable.

3. Greater attention could also be paid to the promotion, protection and teaching of human rights. In that connection, the Working Group established pursuant to Sub-Commission decision 1989/104 under agenda item 6 could consider most of the questions concerning the Sub-Commission's annual programme of work.

4. Having examined in detail the decisions and resolutions adopted by the Commission at its forty-sixth session, he did not share the opinion of some experts that the Commission took a particularly dim view of the Sub-Commission's work. Many opinions, some of which had been negative, had been expressed on the Sub-Commission's role during the general debate, and that was only natural, but the experts should take account only of the decisions and resolutions which had been adopted by the Commission following its consideration of that question and which in no way indicated that the Commission regarded the Sub-Commission's work as useless or superfluous.

5. Referring to the question of the politicization of the Sub-Commission's debates, he recalled that, at its forty-first session, the Sub-Commission had adopted about 40 resolutions, of which only seven related to questions of a political nature concerning, in particular, the situation in South Africa and Palestine. At all events, it was hardly possible for a body such as the Sub-Commission to dissociate political questions from questions relating to human rights and it was evident that the debates on some situations would always have a political dimension. However, that should not be regarded as regrettable; on the contrary, it would be disturbing if the Sub-Commission deliberately cut itself off from international political reality.

6. With regard to "urgent questions", he said that the Sub-Commission should be extremely careful and circumspect, since it had not yet developed strict and clearly defined criteria for an assessment of the relative seriousness or urgency of some questions. In view of the fact that the opinions of the experts might differ considerably in that regard, it was imperative that the Sub-Commission should clearly define the type of question that it regarded as "urgent", in order to avoid taking action in areas in which neither the Commission nor the Economic and Social Council had given it a special mandate.

7. Concerning voting by secret ballot in accordance with the special procedure provided for in Economic and Social Council resolution 1503 (XLVIII) and the procedure adopted for the consideration of agenda item 6, he believed, unlike Mr. Joinet, that the members of the Sub-Commission, in their capacity as independent experts, should be able to express their views in public, whereas voting by secret ballot would be more appropriate for the Commission itself, in which some States undoubtedly took advantage of their economic or political superiority to bring pressure to bear on other States in some specific situations. Consequently, the Sub-Commission should re-examine the question of voting by secret ballot during its consideration of item 6, since it might be necessary to amend some rules of the rules of procedure concerning voting. In that connection, the Sub-Commission could either request the Commission to amend the rules of procedure or, alternatively, formulate its own draft amendment for submission to the Commission.

8. Mr. TREAT said that he fully shared the opinions expressed by Mr. Alfonso Martínez, particularly with regard to the undeniably political aspects of questions relating to human rights. He also endorsed Mr. Alfonso Martínez' comments concerning the procedural aspects of voting by secret ballot, although he considered that, in some situations, the experts' independence was protected more fully when voting took place by secret ballot. If the members of the Sub-Commission allowed him to do so, he could draw up a draft resolution, concerning an amendment to the rules of procedure, for submission to the Economic and Social Council.

9. Mrs. PALLEY said that the Sub-Commission could not anticipate a possible decision by the Economic and Social Council in that regard and any procedure it might adopt at its present session could therefore be regarded only as an *ad hoc* arrangement. If the intention was to formulate recommendations for the future, a number of successful experiments would first have to be made in order to demonstrate to the Economic and Social Council that an amendment to the rules of procedure was actually justified.

10. Mrs. ATTAH, referring to Mr. Alfonso Martínez' statement concerning the Commission's criticism of the Sub-Commission, said that, in her opinion, the latter should examine the criticism carefully and, wherever appropriate, try to take it into account in its work. However, some of the criticism seemed to be attributable to insufficient knowledge of the Sub-Commission's work. In particular, the Sub-Commission could look into the question of the number of resolutions and try to keep it as low as possible.

11. As to the secret ballot, she said that the experts were supposed to be independent and free to express their views and, consequently, should be able to vote openly. The Commission, on the other hand, was composed of representatives of Governments and, although it might sometimes be difficult for weak States to express their opinions openly, they were nevertheless doing

so. Consequently, there was no reason why the Sub-Commission should not be able to do the same. In any event, she believed that it would be premature to change the rules in force unless, of course, an expert felt threatened. She personally preferred decisions taken by consensus, but, whenever that was impossible, the members of the Sub-Commission should express their views openly.

12. Mr. Treat took the Chair.

13. Mr. DESPOUY said that, every year, the Commission adopted draft resolutions which implicitly referred to the Sub-Commission, contained suggestions concerning its work or drew attention to the importance of the studies and views of the experts, the need to streamline the work and monitor new developments, etc. However, studies and new developments came under item 4, which, contrary to established practice, was due to be considered at the end of the present year's session. The outcome of that experiment might induce the members of the Sub-Commission to change the order in which items were considered, thereby complying more fully with the Commission's wishes.

14. Since the beginning of the present session, the Sub-Commission had given a great deal of thought to the international upheavals that were currently taking place. Although he did not wish to re-open the discussion of those upheavals he thought that it would be interesting to consider their effect on the direction of the Sub-Commission's work and, indeed, that of the Commission itself. Particularly in the last 10 years, the latter seemed to have been following a primarily pragmatic approach, which had enabled it gradually to adapt to new situations. Its decision-making power, which had been fairly limited until the 1970s, had also increased, especially after the entry into force of the International Covenants on Human Rights. It had adopted new methods under which its work focused on subjects rather than countries, even though its work had a direct bearing on the latter. Extensive changes had been made in the status and functions of its rapporteurs and there were now special rapporteurs, representatives of the Commission and independent experts, whose influence was constantly increasing. Those changes had been the result of a sort of pragmatic evolution, rather than of formal decisions. Moreover, the Commission now had 10 additional members and, having been given inter-sessional terms of reference, was becoming fairly permanent in nature.

15. There was every reason to welcome that trend and to wonder whether the Sub-Commission, within which differing opinions were expressed concerning working methods and even the work itself, should not follow that example in order to meet the challenge of adapting to new situations. Without waiting to be asked, it should take the initiative by formulating proposals and entering into a dialogue with the Commission on a footing of equality, in such a way as to be able to work harmoniously with it.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (continued) (E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1990/50)

16. Mr. EIDE said that he had taken note of the comments which had justifiably been made by Mrs. Warzazi at the forty-first session of the Sub-Commission and by Mrs. Ksentini at the present session concerning the

recommendation contained in paragraph 445/21 of his report (E/CN.4/Sub.2/1989/8/Add.1) and that he would therefore prepare a revised version of that recommendation.

17. Mr. JOINET said that, for information purposes, he would describe France's recent efforts to combat racism. At the very time when many celebrations were being organized on the occasion of the bicentenary of the French Revolution, it had become evident that there were still some racist groups in France whose existence was linked to the rise of fascism advocated by an extreme right-wing party, which was motivated by genuine xenophobia, particularly with regard to communities of North African origin. The first reaction had naturally been to hold the Government responsible for that state of affairs and the subsequent political debate had led to the establishment of the Co-ordinating Unit for Action to Combat Racism. France also had a National Advisory Commission on Human Rights, on which almost all the non-governmental humanitarian and anti-racist organizations, as well as all the trade union sections responsible for questions relating to human rights, were represented. The Advisory Commission, which was composed of a representative of the Senate, a representative of the National Assembly and all the independent experts of French nationality who were members of United Nations bodies, had prepared a report on racism in France which had given rise to considerable controversy. The French Government had nevertheless agreed to issue the report as an official publication and, under the terms of an act that had been adopted, the Commission would henceforth prepare an official report every year.

18. The Co-ordinating Unit for Action to Combat Racism had established a joint legal data bank, a particularly important measure because the extreme right wing in France had already organized counter-measures by availing itself of the services of legal experts in order to circumvent anti-racist laws without risk. More than nine months of negotiations with the various non-governmental organizations had been needed to ensure the proper functioning of the data bank, whose operations the French Government had decided to finance.

19. Since racism was regarded as a criminal offence in France, ways and means had to be devised to arrest the offenders and, to that end, the Minister of the Interior had assigned a high-ranking official to co-ordinate all the anti-racist activities. It had thus been possible to dismantle an extreme right-wing network within the French police which had been responsible for several attacks on community centres for immigrants. The outcome of the experiment had therefore been positive and, at present, as soon as a serious racist act was committed, the Co-ordinating Unit was immediately informed and it notified the Ministry of Justice, which then contacted the Public Prosecutor's Office, since, in such matters, action taken in the early stages was always decisive. Definite problems had nevertheless been encountered because public opinion and the press had not provided as much support as had been expected. The Co-ordinating Unit had also been criticized for allegedly violating freedom of expression.

20. Two of the proposals submitted to the French Parliament in connection with action to combat racism had been adopted. Under the first, it had been decided that anyone who took advantage of democratic institutions repeatedly to propagate racist ideas would forfeit his right to stand for election. Under the second, it had been decided to take legal action to combat

"revisionism", namely, the denial that Jews had been persecuted and exterminated by the Nazi régime. The consideration of the relevant draft had given rise to heated discussions, since the question had been raised whether the text should deal only with that phenomenon and, in that connection, reference had been made to the Algerian war, the entire French colonial era, the Armenian genocide and even possible future genocides. Basically, however, the most vigorous opposition had come from those who had claimed that the debate on revisionism was of a scientific nature and that, if the bill was adopted, it would be contrary to freedom of expression. That was a point that would have to be considered in greater depth, since a way had to be found to combat the formulation of racist ideas, not to mention racist acts themselves, while respecting freedom of expression.

21. He pointed out that the annual report of the National Advisory Commission on Human Rights showed a very strong upsurge in anti-Semitism in France at the present time. However, if any community was well integrated in France, it was the Jewish community, and that proved that racism and xenophobia could not be viewed solely in the light of the phenomenon of immigration as such and that it was not simply a matter of integration.

22. He acknowledged that the subject was complex and delicate and apologized in advance if any of the terms he had used might be regarded as offensive. He noted that, in the unit of which he was a member, a small team of specialists in semantics had been set up precisely because of the importance of each of the terms used in any discussions of such questions. The statements that politicians made on those problems were reviewed by the team in an attempt to prevent extreme right-wing leaders from being able to turn such statements to their own advantage against anti-racist forces.

23. Mr. SABOIA said that the study submitted by Mr. Eide (E/CN.4/Sub.2/1989/8 and Add.1) provided a very useful assessment of what had been achieved and what remained to be done in the combat against racial discrimination. The heroic struggle of the South African people, together with the measures the international community had taken against the South African régime, had at long last produced some results, such as the independence of Namibia and the start of a political dialogue between the liberation forces and the South African Government. However, the system of apartheid had not been dismantled and, as Mr. Eide had rightly emphasized, any tendency towards a premature easing of international pressure should be avoided. That pressure should now be combined with co-operation with the groups and sectors in South Africa which were working to dismantle apartheid and establish a democratic and non-discriminatory system in that country.

24. The question of racism and racial discrimination went far beyond apartheid. In his study, Mr. Eide had defined five main contexts in which racism and racial discrimination could be analysed. Although useful, that classification did not cover every aspect of the phenomenon. For example, it did not take account of the situation in countries where indigenous populations and their descendants were in the majority, but were at a disadvantage because of discrimination. In general, however, the classification provided a good framework for understanding that phenomenon. In his view, the proposal to study situations originating in slavery and their consequences for present-day societies was particularly useful.

25. In his analysis of other situations of racial discrimination and their bearing on the problems of minorities, Mr. Eide had referred to the urgent need to maintain a delicate balance between respect for a separate identity and the need for unity. Elsewhere in his study, he had indicated that an appropriate balance must be established between non-discrimination, on the one hand, and respect for and protection of separate identity on the other. He stressed that point because he did not think that it had been sufficiently taken into account in the Sub-Commission's work. It should not be forgotten that, particularly in Europe, the situation of minorities was attributable to historical changes in the territorial configuration of States and to population movements brought about by conflicts. The situation was rather different in regions of the world where nations had been formed mainly as a result of the immigration of persons of different ethnic origins and their blending with the indigenous populations. Those nations, which were found mainly in the American continent, were becoming multi-racial societies, although they could not be said to be entirely free from all discrimination. Placing too much emphasis on the differences, rather than the similarities, between groups of persons could ultimately be detrimental to the cause of human rights in those countries. It should be remembered that the disintegration of multi-ethnic States in Europe and the resurgence of ethnic hatred were among the causes of the two World Wars.

26. In his study, Mr. Eide had adopted the right approach to the question of indigenous populations and his recommendations were generally acceptable. He himself nevertheless took a different view concerning the exclusive use of the word "peoples" to refer to indigenous populations. In the vocabulary of the United Nations, in particular, that term usually referred to situations in which the right to self-determination and independence could be invoked. Situations involving indigenous populations, on the other hand, varied enormously depending on the historical, legal and social context in which those populations had developed and it would not be appropriate to invoke the concept of self-determination in all cases, except in the sense of the right to take part in the political life of the country.

27. Many speakers had mentioned the disturbing signs of the resurgence of racism and ethnic hatred, especially in Europe, in the context of situations involving migrant workers and their families. He considered that emphasis should be placed on the contradictory attitude of Western Governments which, in their relations with countries in other parts of the world, pressed for an open-door policy in respect of trade, technology and investments, while at the same time taking measures against the arrival of migrant workers and even other categories of foreigners. Although the way in which that aspect had been analysed in Mr. Eide's study was absolutely correct, he personally agreed with previous speakers that there was a need for stronger recommendations in that regard in order to provide clearer guidelines for action to combat that phenomenon.

28. Mr. ZHAN said that he fully shared the views expressed by Mrs. Warzazi, Mrs. Ksentini and other speakers concerning the need to protect the status of migrant workers. That was a highly important issue to which the developed countries should give their full attention. In that connection, he recalled the extremely interesting seminar that had been held at Athens in September 1989 under the chairmanship of Mrs. Daes.

29. He noted that the internal situation in South Africa had improved during the past year as a result of the struggle of the South African people and the international pressure that had forced the South African authorities to introduce a number of welcome reforms. However, he also emphasized that the racist régime had not yet renounced the system of apartheid or repealed all the laws relating to that system and that apartheid was still in force. Only a few hours previously, he had learned from the press that the South African police had brutally dispersed black demonstrators and that, in Port Elizabeth, 23 black demonstrators had been killed by the police. He therefore considered that the international community should not relax its efforts; on the contrary, it must increase its support for the liberation movements and the front-line African States in order to force the régime in power to abandon its racist policy. Recalling resolution 1990/26 adopted by the Commission on Human Rights at its forty-sixth session, he said that the Sub-Commission must, in keeping with the spirit of that resolution, continue its discussions with a view to reaching a consensus on that question, on the basis of which it would be able to make useful comments and proposals. He and his colleagues were fully willing to work with the other members of the Sub-Commission in order to achieve the objectives set forth in the International Convention on the Suppression and Punishment of the Crime of Apartheid.

30. Mrs. ATTAH said that, in his report (E/CN.4/Sub.2/1989/8 and Add.1), Mr. Eide clearly showed how, through a set of repressive laws, a minority régime could survive by drawing its wealth and power from discrimination against the majority of the population. Since 1952, many organs and ad hoc bodies had been established in the United Nations to try to bring about change in South Africa, although it had taken the incarceration of Mr. Mandela for 27 years, the armed struggle by ANC and other anti-apartheid movements and economic and political pressure from the international community to force the régime in power to agree to enter into negotiations with the indigenous black Africans. She welcomed Mr. Mandela's release, as well as Mr. de Klerk's limited endeavours to put an end to apartheid in South Africa, and she hoped that, at its next session, the Sub-Commission would be able to remove South Africa and apartheid from its agenda, as it had done in the case of Namibia.

31. She had noted the optimistic statements that had been made in the Secretary-General's report on South Africa. However, everyone was aware that the situation in that country was far from calm. The report had admittedly drawn attention to the fact that the apartheid laws, the repressive security measures and persistent violence were continuing to have an adverse effect on domestic tranquillity. It had also confirmed the persistence of racial attitudes and apartheid structures at the local level which were impeding the process of change. Accordingly, the international community should maintain all existing sanctions against South Africa until apartheid had been fully dismantled, in accordance with the passionate appeal Mr. Mandela had made in all the places he had recently visited.

32. Discrimination against indigenous peoples was constantly being brought to the attention of the international community through the activities of the Sub-Commission's Working Group on Indigenous Populations. According to Mr. Eide, the racial discrimination to which those vulnerable groups were being subjected resulted from a long historical process of conquest and marginalization. The Second Decade for Action to Combat Racism and Racial

Discrimination would end in 1993, which had been proposed as the international year for indigenous peoples' rights. She hoped that the draft declaration on indigenous peoples' rights would be adopted in that year and recommended that the competent working group should examine the recommendations made by the participants in the seminar that had been held at Geneva from 16 to 20 January 1990 on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States, as contained in the United Nations publication issued as document HR/PUB/89/5.

33. In conclusion, she thanked Mr. Khalifa and some other members of the Sub-Commission who had spoken of the new forms of racial discrimination being engaged in by extreme right-wing groups in the developed countries. Mr. Eide's report had not dealt with that unfortunate resurgence of racial discrimination extensively enough. She shared the view expressed by Mr. Sadi, who had stressed the need for the immediate application of measures to avert that incipient new danger.

34. Mr. van BOVEN said that he had been deeply moved by the statements made by Mrs. Warzazi and Mr. Khalifa, who had outlined the problem and had then referred in detail to some aspects of racism and, like Mr. Eide, had very rightly pointed out that a resurgence of racism, xenophobia, nationalism and intolerance was taking place in many parts of the world, particularly in Europe. As a European, he was deeply concerned and thought that Europeans should spare no effort to eliminate those baneful phenomena, which were partly attributable to a totally unjustifiable feeling of racial superiority on the part of some Europeans. In actual fact, it was extremely disturbing to note that, despite the efforts of the international community and the United Nations, as reflected in the International Convention on the Elimination of All Forms of Racial Discrimination, which was one of the most widely ratified United Nations conventions, that phenomenon was still latent and, in many respects, was taking even more virulent forms than before. The United Nations therefore had every reason to continue its efforts in that regard.

35. Referring to Mr. Eide's report (E/CN.4/Sub.2/1989/8 and Add.1), he noted that its author attached considerable importance to strengthening the role of the Under-Secretary-General for Human Rights and to closer co-ordination between the Sub-Commission and the Committee on the Elimination of Racial Discrimination. Although the Committee met in the summer, at the same time as the Sub-Commission, they were both too involved in their own work to have an opportunity for exchanges of views other than on an individual basis. He supported recommendations 33 and 34 contained in paragraph 445 of document E/CN.4/Sub.2/1989/8/Add.1 and proposed that the Sub-Commission and the Committee should hold a joint meeting for at least one day in 1991.

36. On the question of the scope of the study under consideration, he did not think that Mr. Eide had gone beyond his mandate. The many aspects of the problem, ranging from the system of apartheid to the elimination of discrimination in general and covering the situation of indigenous populations, migrant workers, minorities and other groups, were within the scope of article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination and constituted issues which the World Conferences of 1978 and 1983 had regarded as worthy of attention.

37. However, with regard to the recommendation contained in paragraph 445/10 of the document E/CN.4/Sub.2/1989/8/Add.1 concerning the new ILO Convention on the Protection and Integration of Aboriginal and Other Tribal and Semi-tribal Peoples in Independent Countries, he noted that that instrument had met with resistance among the communities concerned, despite the genuine progress that it represented in relation to the text that had been drawn up in the 1950s, in so far as it did not call for assimilation. Much would therefore depend on the spirit in which that Convention would be applied. Accordingly, if the Sub-Commission endorsed that recommendation, it should also approve recommendation 445/11, which proposed that the indigenous peoples should be involved in the implementation of the Convention. In that connection, it would be interesting to hear the well-informed opinion of Mrs. Daes, in her capacity as Chairman of the Working Group on Indigenous Populations.

38. Lastly, he expressed his concern at the acts of brutality to which, according to press reports, some ethnic and racial groups were still being subjected, at the local level, by members of the police, even when the Government had changed its attitude towards them, as had happened in South Africa.

39. Mrs. DAES said that racial discrimination was an affront to human dignity and that the doctrine of racial supremacy, which could only envenom international relations, posed a threat to world peace. The principle of brotherhood, which had been proclaimed 42 years previously in the Universal Declaration of Human Rights, was now a prerequisite for the survival of mankind.

40. She congratulated Mr. Eide on the thoroughness of his study (E/CN.4/Sub.2/1989/8 and Add.1) and the practical nature of the conclusions and recommendations it contained. In particular, she endorsed the comments made in paragraphs 434, 435, 437, 441, 443 and 444 of document E/CN.4/Sub.2/1989/8/Add.1. It was especially important to strengthen the co-ordinating role of the Under-Secretary-General for Human Rights in order to increase the effectiveness of the mechanisms in question and avoid duplication.

41. She had reservations only with regard to the recommendation contained in paragraph 445/10 of that document, since she had noted that, despite the real progress that the ILO Convention constituted, most of the representatives of indigenous peoples who had come to participate as observers in the work of the Working Group were opposed to it in so far as it would protect the rights of only some groups.

42. As to discrimination against indigenous populations, she deplored the fact that more than 2 million indigenous persons were still being subjected to discriminatory treatment, despite the efforts that had been made within the framework of the programmes of action for the two Decades, despite all the provisions relating to human rights and despite the various measures that had been taken by many Governments. In her capacity as Chairman of the Working Group on Indigenous Populations, she would do her utmost to ensure that the draft declaration was completed in 1992 and she urged Governments and indigenous peoples to co-operate with the Working Group and the Sub-Commission to that end.

43. On the question of children, she drew attention, in particular, to those of minorities, indigenous peoples and migrant workers. Mrs. Warzazi and Mrs. Ksentini had provided extremely detailed information on that subject and useful reference could also be made to paragraphs 142 to 183 of document E/CN.4/1990/6. The Sub-Commission should also bear in mind the situation of other minorities, such as gypsies and refugees. The struggle against xenophobia was far from over and, unfortunately, that scourge was rampant not only in Europe, but throughout the world.

44. After congratulating the non-governmental organizations on their efforts to inform public opinion and urging them to intensify their endeavours in that regard, she paid a tribute to the noblest representatives of all the different races, colours, religions and cultures who had forged the ideal towards which the efforts of all defenders of human rights were directed.

45. Mr. DIACONU said that it would be useful to pursue Mr. Khalifa's consideration of the various contemporary manifestations of racial discrimination. While it was true that racism was on the rise in many countries at the present time, it was not certain that it was more serious than before, as it might hitherto have been concealed by other even more serious problems.

46. He did not think that the changes that had taken place in the countries of the East had aggravated racism. Although the new freedoms that had been acquired had undoubtedly led to some excesses, those countries were currently trying to strike a balance between the exercise of human rights and fundamental freedoms and respect for the corresponding obligations. They were faced with problems similar to those of the Western countries, such as unemployment, and those of the third world countries, such as underdevelopment, and that fact should be borne in mind. It was to be hoped that, during the course of their economic and social development, those countries would avoid the adoption of Western models that had negative aspects such as racism.

47. The Sub-Commission should make every effort to deal with human rights problems in the light of the actual situation and should avoid any ideological approach or reaction. It was not enough to condemn the States in which human rights were violated; they should be given assistance to solve those problems. As Mr. Guisse had pointed out, the Western countries should also refrain from using the weapon of economic aid linked to respect for human rights and should make genuine efforts to promote the development process in the developing countries, since their development would play a vital role in the field of human rights. The members of the Sub-Commission should draw the attention of Governments to those questions.

48. With regard to the recommendations that Mr. Eide had made in his study (E/CN.4/Sub.2/1990/8/Add.1, para. 445), he thought that the problem of migrant workers, as referred to in recommendation 21, should be approached primarily from the host countries' point of view. The recommendations concerning minorities should also be reconsidered in the light of the Sub-Commission's discussion of protection of minorities under the relevant agenda item.

49. Mr. Türk resumed the Chair.

50. Mrs. PALLEY said that she was still in favour of maintaining sanctions against South Africa until the process of dismantling apartheid had actually begun. She would therefore support any draft resolution to that effect that might be proposed under agenda item 5 (b). However, she thought that a two-track approach to the situation should be envisaged and that the United Nations should provide technical assistance to all those who were seeking a peaceful, negotiated settlement to the conflict in southern Africa. She believed that all the parties concerned wished to receive such assistance in order to further the peace process and, in her opinion, the Sub-Commission should take such an initiative.

51. In reply to Mrs. Warzazi's question, she indicated that she had made inquiries to ascertain the British Government's attitude towards the problems of racism. She had been pleased to learn that the Home Office had fully supported some proposals made by the British Commission for Racial Equality, which was responsible for studying all those questions, particularly with regard to migrant workers and their families. Although there was still much to be done in that field, Governments could not be held responsible for all the problems. Immigration officials and police officers, in particular, should be made aware of the magnitude of those problems and far-reaching efforts were currently being made for that purpose in the United Kingdom.

52. Lastly, it seemed impossible to strike a balance between freedom of expression and racism, except possibly when there was a potential risk of public disturbances, but it was always difficult to assess the extent to which those disturbances were imminent. However, with the exception of such cases, she did not think that support for freedom of expression implied tolerance of racism.

53. Mr. BOS (Baha'i International Community) congratulated Mr. Eide on his valuable study of the achievements made and the obstacles encountered during the Second Decade to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add. 1) and welcomed the Sub-Commission's decision to give further consideration to ways and means of implementing the recommendations it contained.

54. The Baha'i International Community attached particular importance to the recommendation concerning education. During previous sessions, his Community had emphasized the need for collaboration among States, UNESCO and the Centre for Human Rights with a view to formulating appropriate pedagogical tools to combat racism, as well as the need to develop the concept of the "fundamental unity of humankind", which Mr. Eide had mentioned, and to consider its implications with regard to education. In particular, his Community had recommended the development and application in educational institutions throughout the world of a curriculum affirming the existence of a single human species and demonstrating the fallacious nature of the idea of racial superiority.

55. The International Baha'i Community therefore welcomed the decision of the General Assembly to convene a round table of experts to discuss the preparation of teaching materials to combat racism and discrimination. That should lead to the formulation of a universal curriculum in that field and offer an opportunity to expand and consolidate collaboration among States, the Centre for Human Rights and UNESCO. Such co-operation should also enhance the

ability of States parties to fulfil their obligations under article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, which stipulated that all States should adopt immediate and effective measures with a view to combating prejudices which led to racial discrimination and promoting understanding, tolerance and friendship among nations and racial or ethnic groups.

56. Mr. PHILLIPS (Minority Rights Group) said that the right to use one's own mother tongue was so basic that it was generally taken for granted. However, many minorities throughout the world were being denied that right or were unable to exercise it fully. Between 4,000 and 5,000 languages were spoken in the world and only 5 per cent of them enjoyed official recognition; the remaining 95 per cent, which were spoken by minorities, had no official status. Only 40 States were officially bilingual or multilingual. All the others had only one official language and did not recognize the languages of their minorities. The members of those minorities were therefore forced to become bilingual merely in order to communicate with the majority of the population, although the latter had no obligation to learn minority languages.

57. That disparity was even more flagrant in the field of education. The right to be educated in one's mother tongue was regarded as a natural right, but it was being denied to the children of minority groups, although the education system could play a decisive role in preserving minority languages. The General Assembly had proclaimed 1990 as World Literacy Year and UNESCO had long been urging Governments to take measures to ensure that all children were educated in their mother tongue in primary school. Literacy was a vital part of educational development, particularly when it was taught in the child's mother tongue. Although many Governments were endeavouring to promote mother-tongue literacy, they did not always have the necessary resources. In many States, the children of minority groups had to learn to read and write in a language other then their own and, as a result, they mastered neither the language of the majority nor their own mother tongue. In some cases, they even forgot their mother tongue, thus becoming alienated from their own people.

58. In some countries, minorities did not even have the right to use their languages freely. That was the case of the Kurds in Turkey; the Turks in Bulgaria, who had been subjected to forced assimilation until late 1989; the Berbers in some parts of North Africa; the Tibetans in Tibet, where the Tibetan language was virtually no longer taught and there were very few books in Tibetan; and some groups in South Africa, where students had been tortured for demanding an education in the language of their choice.

59. He drew the attention of the members of the Sub-Commission to article 3 of the draft declaration on the rights of persons belonging to national, ethnic, religious or linguistic minorities, which explicitly guaranteed the protection of linguistic rights. In fact, the right to freedom of opinion and expression was inadequate to protect minority peoples and their languages. He ardently hoped that the declaration on minority rights would constitute a practical response to the concerns expressed by the General Assembly in resolution 44/52 with regard to the effects of racial discrimination on the children of minorities in the fields of education, training and employment.

60. Mrs. WARZAZI said that she had been a member of the Committee on the Elimination of Racial Discrimination for a long time and remembered the extremely lively debates that had been held on the question of the implementation of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, which condemned all propaganda and all dissemination of ideas or theories based on racial superiority, as well as incitement to racial discrimination. The sacrosanct principle of freedom of expression had frequently been invoked during those debates. However, it should not be forgotten that freedom of expression must stop short of encroachment on the freedom of others, which was the inevitable result of racist political slogans and statements. In her opinion, freedom of expression could not be exercised if it might pose a threat to the honour, the security or even the life of others.

61. She welcomed the recent adoption by the French Parliament of a bill on that question, although she noted that it had been passed only in the wake of appalling statements by some members of the extreme rightwing and, above all, following the desecration of Jewish cemeteries, which had been condemned unanimously by Christians and Muslims alike.

62. Mr. SHAMIL (Observer for Iraq), speaking in exercise of the right of reply, said he was surprised that members of the Sub-Commission had raised the question of the present situation in Kuwait, despite the fact that the outgoing Chairman had warned against any politicization of the Sub-Commission's debates. The situation in Kuwait was a political issue which did not come within the Sub-Commission's terms of reference.

63. In any event, he pointed out that Iraqi forces had entered Kuwait at the request of the provisional Kuwaiti Government, which had overthrown the former régime, in order to protect Kuwait from any outside interference. Contrary to what had been stated, moreover, the foreigners who were now in Iraq and Kuwait were free to return to their countries through Jordan and Turkey. He did not see how the Sub-Commission could consider alleged violations of human rights in Kuwait without first ascertaining that they had really taken place.

64. With regard to the question of the displacement of Kurdish population groups from northern Iraq, which had been raised by Pax Christi International, he recalled that, after the war with Iran, the Iraqi Government had decided to establish an uninhabited frontier zone along its borders with Turkey and Iran. The persons living in that zone not only in Kurdistan, but in other provinces, had been transferred to more secure areas. However, each family had been allowed to choose where it wished to be resettled and had been compensated accordingly. The Kurds had been given a choice between two autonomous Kurdish provinces. The Iraqi Government categorically denied that the purpose of that measure had been to transfer Kurdish citizens to desert areas; its sole purpose had been to establish frontier security zones, for that had been a vital necessity, as amply demonstrated by the conflict with Iran.

The meeting rose at 1.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN recalled that at its fortieth session the Sub-Commission had, by resolution 1988/30 of 1 September 1988, requested the Chairman to appoint one of its members to report on the question of encouragement of universal acceptance of human rights instruments, which was the subject of agenda item 14. He informed the Sub-Commission that after consulting the members of the Bureau, he had decided to entrust Mr. Ribot Hatano with that task.

ELIMINATION OF RACIAL DISCRIMINATION:

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5 (a)) (continued) (E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1990/50)

2. Mr. BUCAK (Liberation) said that racism and racial discrimination were far from being eliminated. Despite some progress, apartheid had not yet been dismantled and, in many countries, migrant workers, displaced persons and members of religious, ethnic and linguistic minorities were victims of discrimination. That was the case in particular of Indians in Latin America, Tibetans in Tibet and Kurds in Turkey.

3. His organization wished to draw the Sub-Commission's attention in particular to the situation of the Kurds, who were subjected by the Turkish Government to a systematic policy of ethnic and racial discrimination and forced assimilation. In April 1989, the International Conference on Human Rights in Kurdistan had recognized that Turkey had denied the existence of the Kurdish people since 1925 and that the Turkish Government was trying to "Turkify" the Kurds. Kurdish place-names had been replaced by Turkish names, and the population of entire villages had been displaced on grounds of public or national security. The Constitution of 1982 constituted the juridical foundation of Act No. 2832 of 19 October 1983, which officially prohibited the Kurdish language and made its use a crime. Several persons had been sentenced to prison terms for speaking Kurdish in public. Furthermore, in May 1989, the National Security Council had launched a campaign denying the existence of a Kurdish nation and the Kurdish language, which it claimed to be a dialect of Turkish. Various members of the Turkish Government had even had the audacity to assert that there were no Kurds and that therefore there was no discrimination against Kurds in Turkey.

4. It was obvious that Kurdish culture, which was part of the common heritage of mankind, was threatened with extinction. His organization therefore requested the Sub-Commission to urge the Turkish Government to take political, cultural and economic measures which would ensure the full equality of all peoples and individuals in Turkey, and to become a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

5. The CHAIRMAN noted that the observers from the non-governmental organizations on the list of speakers on the item had not arrived. He therefore invited members of the Sub-Commission wishing to do so to make further observations.

6. Mr. SACHAR recalled that at its forty-first session, the Sub-Commission had adopted resolution 1989/4 reaffirming that the Israeli occupation itself constituted a gross violation of human rights in the occupied Palestinian and other Arab territories, and condemning Israel. The Commission on Human Rights had done likewise in its resolution 1989/2, and had requested the Secretary-General to bring the resolution to the attention of the Israeli Government and to report on its implementation to the Commission at its forty-sixth session. However, the situation in that region had not improved and the talks between Israel and the Palestinians had not taken place because of Israel's refusal to participate. Yet no Power had felt that it was able to exert pressure on Israel to reverse its decision. The already grave situation might worsen because of the conflict between Iraq and Kuwait. There were some indications that the Arab world was beginning to regard an aggressor as the guarantor of Arab honour. It was therefore necessary to act without delay and to press harder to ensure that the resolutions adopted were implemented and a solution found to the Israeli-Arab problem.

7. The agreement reached recently in South Africa between Mr. Mandela and Mr. de Klerk was encouraging, but many problems remained to be resolved. South Africa still refused to change the legislation on land ownership, which was of vital importance since 88 per cent of the land was in the hands of 5 per cent of the population. It must not be forgotten that human rights could not be enjoyed in poverty, which must therefore be eliminated as a matter of priority. Consequently the Sub-Commission should appeal to all developed countries to provide a minimum of aid to African countries, for exclusively political solutions did not resolve all problems.

8. Mr. TREAT, speaking first on a point of order, suggested that the issue of the late arrival of persons on the list of speakers at meetings at which they were to speak should be considered by the Bureau at its next meeting. Such delays were serious since they prevented the Sub-Commission from properly fulfilling its functions, and consideration might perhaps be given to requesting latecomers to forego their right to speak. He would like to know the views of other members on that point.

9. With regard to item 5 (a), he congratulated Mr. Eide on his excellent report (E/CN.4/Sub.2/1989/8 and Add.1), which had been amply commented on by several other members of the Sub-Commission. For his part, he wished to draw attention to two topics which had already been taken up, although from a different standpoint. They concerned, first of all, the relationship between respect for human rights and the economic situation in different countries, and more precisely the interrelationship between poverty and racism; and, secondly, how a society could most effectively discourage racism and other human rights violations.

10. It was undeniable that poverty gave rise to all sorts of human rights abuses, although wealth was no guarantee of respect for human rights. For example, some of the richest countries with the highest per capita incomes had the least freedom. It could not be denied, however, that an economic imbalance existed between the countries of the North and West and those of the South, and that the former should do everything in their power to correct it. Yet the donor countries were frustrated to find that their foreign aid did not always produce the expected results in the countries of the third world. They also had difficult decisions to make, and therefore had to establish criteria which would enable them to determine the amount and form of aid to be

furnished and the countries for which it should be intended. In any event, every decision was capable of being wrongly interpreted. It could also be asked whether in establishing such criteria the North was not imposing or trying to impose its own values on the third world; there was clearly some justification for that accusation. But, if the North could not establish its own criteria for distributing its aid, it might also become less generous. He hoped that when members of the Sub-Commission spoke of the egocentrism of developed countries, they would also think of the problems and difficult choices facing those countries.

11. Racism was just one form of prejudice. It was well known that no one was free of prejudice, but that did not mean that efforts to eliminate racism must stop. No State, could impose its own values in the human rights field on another State, but no civilized nation should stop proclaiming human rights. In listening to the comments of other experts, he had kept thinking of his own country, the United States. It was a multiracial nation which was sometimes described as a "melting-pot", whereas most countries were ethnically homogeneous nations. However, all those different ethnic groups formed a single people, a single nation, the American nation. Furthermore, the majority of new citizens insisted on being called Americans. That experiment was consistent with the efforts made by the Sub-Commission to ensure that all people were placed on the same footing irrespective of their social or ethnic background. Of course, racism was not entirely absent from American society, but considerable progress had been made in that field, as demonstrated by the fact that Blacks had been elected mayors in some major cities. Moreover, all ethnic groups were represented in Congress and in State legislatures.

12. Hence, the problem of racism did not really arise in a relatively homogenous nation. However, the world was becoming more open, as Mr. Eide stated in paragraph 384 of his report (E/CN.4/Sub.2/1989/8), and as nations relaxed their immigration legislation and international migration increased, persons of different origins would be able to live together within national boundaries while retaining their cultural and religious traditions in a democratic and pluralistic society founded on the rule of law. That would not take place overnight, but the American experiment showed that it was possible.

13. Mr. ALFONSO MARTÍNEZ said that he shared the concern expressed by Mr. Khalifa at the increase in racism, xenophobia and discrimination. During the second half of the current Decade to Combat Racism and Racial Discrimination, it would be well if the United Nations took strong measures against those scourges.

14. The latest communications before the Sub-Commission did not augur well for the future. The economic imbalances referred to by Mr. Treat were growing both in Europe and on the American continent. Migrant workers, national minorities and indigenous peoples were still the object of daily harassment and more serious attacks. In the current period of political, economic and social upheavals, the fight against racial discrimination quite naturally occupied a priority place in the Sub-Commission's programme of work.

15. He fully endorsed the praise expressed concerning the report by Mr. Eide (E/CN.4/Sub.2/1989/8 and Add.1), but it raised a number of questions. For example, referring to paragraph 434 of the conclusions (E/CN.4/Sub.2/1989/8/Add.1), he was aware of the need to strengthen co-ordination between the various United Nations agencies dealing with racism, given the many forms it took, but wondered how it was hoped to do so in view of the lack of resources.

16. As indicated in paragraph 436 of the same document, it was important to improve the exchange of information between different organs and agencies. It would be particularly useful, in that regard, both for the activities of the Centre for Human Rights and for the work of the Sub-Commission, if the United Nations Secretariat reviewed the situation in different countries once a year so that it would be possible to identify the various trends or manifestations of racial discrimination in the world. It would be well for the General Assembly to express its views on the appropriateness of such a measure and on the resources necessary for its implementation.

17. He welcomed the fact that theories of superiority and inferiority on biological grounds had been utterly discredited (ibid., para. 437), although care should be taken not to proclaim victory too soon. Some population groups, such as ethnic minorities, indigenous populations or migrant workers, still suffered from such prejudice, particularly at work. In that regard, he wished to thank the Secretariat for publishing the report of the United Nations seminar on cultural dialogue between the countries of origin and the host countries of migrant workers, held in Athens from 18 to 26 September 1989, a document which he found highly informative. In his opinion, it was important that the members of the Sub-Commission should examine in depth the problems confronting migrant workers.

18. With regard to apartheid, he endorsed Mr. Eide's recommendatons, contained in his report, concerning the need to continue sanctions and the struggle against apartheid. It would be an error to consider, as some did, that apartheid had entered a final phase. It was sufficient to observe the situation in South Africa to be convinced that the scourge of apartheid would not be eliminated until all its ramifications had been extirpated.

19. He welcomed the draft universal declaration on the rights of indigenous peoples (E/CN.4/Sub.2/1989/8/Add.1, para. 445/12) and hoped that the Working Group would finalize it as quickly as possible.

20. He also endorsed recommendations 13, 14, 15 and 16 contained in paragraph 445 of document E/CN.4/Sub.2/1989/8/Add.1 and stressed, in particular, the importance of the relations between States and indigenous peoples referred to in recommendation 15, particularly with regard to the situation of the indigenous peoples in the region of Montreal.

21. Like some other members and representatives of several non-governmental organizations, he deplored the fact that the new ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries so poorly reflected the needs of those peoples. Its shortcomings were due to the fact that the representatives of those peoples had not been associated with the elaboration of the instrument and not, as Mr. Eide suggested in recommendation 11, that they had not been associated with the monitoring of its implementation.

22. He endorsed the first part of recommendation 21, while supporting the reservations made by Mrs. Ksentini to the effect that drawing attention in that way to the need for migrant workers to abide by the law might cause them to be held responsible for certain problems, particularly in some countries of western Europe. He hoped that Mr. Eide would take account of those reservations in the final version of his report.

23. He noted the importance of Mr. Treat's comments concerning the interrelationship between human rights and the economic situation in various countries. He wished, nevertheless, to warn against an erroneous interpretation of the distinction made by Mr. Treat between those two concepts, on the one hand, and the economic and cultural situation of a country on the other. An attempt had been made to claim that human rights were in fact limited to the sphere of civil and political rights, and that economic, social and cultural rights amounted for the moment to mere aspirations that would be achieved one day in the future. But the indivisible nature of human rights had been confirmed on various occasions by the General Assembly, the Economic and Social Council and the Sub-Commission itself, as well as several other international forums such as the Tehran Conference of 1968.

24. He himself did not consider that the economic problems which arose in various countries of the world were difficult to understand. The free-market economy, which imposed economic restrictions, tariff and non-tariff barriers and customs duties, was the cause of all the economic difficulties referred to by Mr. Treat and the conflicts separating the North, which was becoming richer and more influential with every passing day, from the South, which was becoming poorer.

25. With regard to the situation in the United States, he noted that the latest United States Census Bureau statistics to which he had had access revealed major disparities between the Black and White populations as regards unemployment, mortality and the death sentence for example. He was therefore sceptical with respect to the "melting-pot" metaphor used by Mr. Treat to describe his country's multiracial society. He expressed satisfaction at hearing a United States citizen analyse the economic situation as Mr. Treat had done.

26. Mr. GUISSE, referring to the events in Liberia, said that he was distressed to see two African leaders involved in a deadly race against time to achieve their ends before the African peace-keeping force could intervene. Whereas one week previously, it had seemed that the problem could be resolved under the auspices of the Organization of African Unity, he could only deplore the suffering and massacres that were still taking place. It was regrettable that the members of the Sub-Commission, who were meeting to speak of human rights and the prerogatives of humans beings, remained powerless to tackle the situation in Liberia, which, while not directly linked to racial problems, was nevertheless the result of discriminatory practices and the denial of the right to be different and the right to life. He called on the members of the Sub-Commission to appeal to the conscience of all in order to put an end to that genocide and encourage OAU to find the speediest possible solution to the conflict, which continued to endanger the lives of thousands of families.

27. Turning to the situation in South Africa, he observed that after some encouraging signs, the clashes were becoming more deadly and violent. The reasons why two Black ethnic groups were currently attacking each other must be sought in the hateful policy of apartheid. Economic sanctions had been undeniably effective, and should be continued in order to lay the foundations for a multiracial society and avoid any worsening of the situation in that country.

28. Lastly, he referred to the appeal for firmness made by Mr. Treat with regard to the non-governmental organizations which were not present at the time indicated on the list of speakers. While agreeing that they should be requested to be more punctual, he thought that it was indispensible to allow them to address the Sub-Commission, since they made an essential contribution to the provision of objective information on international law and human rights. He paid particular tribute to the remarkable action carried out by the organization "School - An instrument for peace", which had not only sponsored two major seminars in Africa but had also enabled West African countries to include the discipline of human rights in the syllabuses of universities and primary and secondary educational institutions, thereby helping to realize UNESCO's wish to "plant the tree of peace in young people's minds".

29. Mr. LITTMAN (World Union for Progressive Judaism) regretted that the rules of procedure of the Sub-Commission did not allow observers of non-governmental organizations to digress from an agenda item in order to speak on other issues, such as the current situation in the Persian Gulf, and that the experts of the Sub-Commission had been unable to agree on a joint declaration condemning the invasion and annexation of Kuwait by Iraq.

30. He wished to revert once again to the notoriously anti-Semitic and racist General Assembly resolution 3379 (XXX), adopted on 10 November 1975. That resolution, which determined that "zionism is a form of racism and racial discrimination", was intended to criminalize Jews in the eyes of the entire world and thus promote anti-Semitism. Until that detestable resolution was abrogated, distrust would prevail in the Middle East, preventing détente and conciliation between the Arab States and Israel.

31. He referred to the statement made by a political counsellor at the Soviet Embassy in London, in November 1989, that if the State of Israel was recognized, the ideological movement on which it was founded would also have to be recognised. He also drew attention to the statement made one month later by the Vice-President of the United States that the American and Soviet sides should work together for the early abrogation of the resolution. Furthermore, the European Parliament had stated three years previously that it considered the resolution to be "unacceptable" and an obstacle in the way of a peaceful settlement of the Arab-Israeli conflict.

32. He was convinced that the Sub-Commission would be able to find an acceptable solution which would enable the General Assembly to set aside the resolution. It would be sufficient, for example, to adopt a new resolution recognizing that zionism was the national liberation movement of the Jewish people, that the great majority of Jews supported the movement, and that the State of Israel had been established by the United Nations as a legitimate

expression of the movement. He renewed his appeal to Mr. Eide to undertake that task and thereby help to remedy a shameful manoeuvre, in the hope that the Arab States and the PLO would understand the importance of that collective peace initiative and not hinder it.

33. Mr. ALFONSO MARTÍNEZ, referring to the statement which had just been made, wished to stress that he himself had taken part in the negotiations and later in the elaboration and adoption of General Assembly resolution 3379 (XXX) as a representative of Cuba, and was proud of the fact. To claim that the existence of the resolution prevented a settlement of the Israeli-Arab conflict was absurd, since the current situation no longer had anything to do with a resolution that had been adopted in 1975. The State of Israel had only its expansionist and aggressive policy to blame. In order to be convinced one had only to read the report in the day's press that, in view of the threat of chemical warfare, the Government of Israel had decided to distribute masks to the population, with the exception of Palestinians.

34. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination) (EAFORD) said it was comforting to note that apartheid in South Africa was in the process of being dismantled. Yet other forms of racism and racial discrimination still existed in other parts of the world, the most apparent being the form practised in Palestine by the State of Israel under the name of zionism, which had however been condemned in 1975 by a United Nations General Assembly resolution. In Israel, some Zionists claimed that they should be treated better than others since they were the "chosen people". He considered that if there really was a monotheistic god who approved of such discrimination among human beings, it was hardly possible to speak of "divine justice".

35. In the southern Pacific, Fiji, a country long cited as a model of multiracial harmony, had been torn by racial conflicts, ethnic violence and religious intolerance since one of the racial groups living on the archipelago had embarked on an effort to dominate the others. Both the 1970 Constitution, promulgated by the racist régime of Colonel Rabuka, who had overthrown the democratically elected régime of Mr. Bavadra, and the new Constitution promulgated on 25 July 1990, the text of which had not yet been made public, had destroyed any prospect for racial harmony, peace and prosperity in the country. EAFORD condemned the racial discrimination practised in Fiji and called on the Sub-Commission to find a way to persuade the Government of Fiji to put an end to its racist policy.

36. Other forms of racism and racial discrimination existed in another holy land, Arabia, to which a single family had given its name after conquering most of the territory. The most visible discrimination in Arabia was that practised against foreign workers, who were paid according to their country of origin, the best salaries being given naturally to Americans, then Europeans, etc. Even Arabs from other countries did not for the most part receive the same economic and social benefits as native Saudis.

37. Mr. COE (National Aboriginal and Islander Legal Services Secretariat) noted that in his study (E/CN.4/Sub.2/1989/8 and Add.1), Mr. Eide seemed to doubt, as he himself did, whether real progress had been made in the attention given to discrimination against indigenous peoples. In Australia, in any event, it was certainly not possible to speak of the slightest improvement in the situation of aboriginal and islander peoples. Police brutality and the

pernicious consequences of assimilationist policies continued to constitute the daily reality of those peoples and posed a serious threat to their well-being and survival. Activities undertaken over the past two decades had done nothing to alleviate the pattern of oppression and discrimination against indigenous peoples, though they had made it possible to place the manifestations of racial discrimination within the framework of a historical process of conquest, dispossession and marginalization. Furthermore, they had given rise to the realization that in order for indigenous people to be able to exercise their human rights and eliminate the effects of racial discrimination in their relations with States, it was necessary for them to be able to regain control over their own affairs and destiny. The seminar which had been held in Geneva in January 1990 had also concluded that the principle of self-determination was essential to the enjoyment of all the human rights of indigenous peoples.

38. Accordingly, in appraising national measures to combat racism against indigenous peoples, account must be taken of the extent to which such measures enjoyed the full and informed consent of those concerned and ensured their effective control over their own affairs. However, an examination of national measures taken in Australia revealed that such was not the case in that country. The federal Government sought above all to avoid any responsibility for the continuing gross violations of the human rights of aboriginal people by State Governments which had historically pursued policies of genocide and ethnocide. It was becoming increasingly obvious that real and lasting reconciliation between Aboriginal and non-Aboriginal Australia could be achieved only through the negotiation of an instrument independent of the institutions of the two sides and under the supervision of an impartial body.

39. At the international level, the standard-setting activities of the Working Group on Indigenous Populations deserved to be supported as the most important contribution to the elimination of racism and racial discrimination in indigenous peoples' relations with States. In that connection, he welcomed the extensive indigenous input to work on the draft declaration on the rights of indigenous peoples. Internationally as well as nationally, the relations of States with indigenous peoples must be based on free and informed consent and co-operation rather than on consultation and participation. Specifically, the inclusion of a paragraph on self-determination in the second revised text of the draft declaration would advance the cause of indigenous peoples.

40. Mrs. CHEN (International League for Human Rights) said that her organization was deeply concerned about the discriminatory practices inflicted on the minorities in the People's Republic of China, in particular the Hui, Uighur, Kirghiz and other Muslim minorities, as well as Tibetans. Such discrimination had on many occasions caused clashes with local ethnic groups and human rights violations. However, following the serious events which had taken place in March and April 1990 in Xinjiang province, the Chinese authorities had closed the region to foreigners, and it was therefore difficult to know what had really taken place. For decades the Chinese minorities had denounced the deployment of troops by the State and its use of deadly force against unarmed citizens, but it had taken the presence of foreign reporters at the massacre committed the previous year in Beijing to confirm the truth of those allegations.

41. The official explanations of those events ignored the underlying causes which related to national policies towards minorities and racial discrimination. The authorities generally confined themselves to stating that the demonstrations and complaints by national groups came from small separatist factions. In fact, despite the so-called autonomy of the various regions, decisions on local questions could not be taken at the local level, and none of the heads of local government in the five principal autonomous regions of China were of the local nationality. The same was true of military commanders and political commissars.

42. Her organization had prepared a report on those issues, including statistics on population, Han migration into minority regions, educational levels and related topics. The report, which was available to the members of the Sub-Commission, revealed that the Chinese Government's policy was indeed discriminatory against minority populations for a range of social, economic, cultural and political rights. It also showed that the Government did not provide any effective means for victims of racial discrimination to obtain remedy through a fair judicial or administrative procedure.

43. In conclusion, she stressed that her organization was troubled that the international community, which had done so much to draw attention to the issue of racial discrimination, had not done more to establish an effective mechanism to combat it. She called on the Sub-Comission to make the most serious efforts to implement the recommendations contained in Mr. Eide's study, and urged it to take action to investigate the many charges of racial discrimination in China.

44. Mr. DEER (International Work Group for Indigenous Affairs) said that during the recent confrontations between the Mohawk nation and the Governments of Quebec and Canada, Mohawks had been burnt in effigy, and indigenous persons insulted and physically harassed. Such acts were fostered by the supremacist and racist ideology of organizations such as the Ku Klux Klan which were flourishing throughout the country. Such a resurgence of racism and racial discrimination gave cause for deep concern, as various experts of the Sub-Commission had clearly shown.

45. In Canada, racial discrimination against members of indigenous communities occurred in all fields: administration of justice, legislation, settling of long-standing land claims, etc. The International Work Group had prepared a detailed report on important cases for which it had initiated a series of inquiries across Canada and to which it would refer under agenda item 10.

46. With regard to the report by Mr. Eide, and more particularly recommendation 10, in paragraph 445 of document E/CN.4/Sub.2/1989/8/Add.1, that States should be asked to ratify ILO Convention No. 169, he thought that while that instrument marked a step forward in some areas it was somewhat retrograde in others which were vital to indigenous peoples, notably in putting forward a paternalistic view of assimilation which could not lead to the elimination of all forms of racial discrimination against indigenous and tribal peoples. No indigenous people should accept the Convention, which had set its minimum standards far too low. Indigenous peoples must give their free and informed consent before the Convention was ratified. Convention No. 169 was fatally flawed in that regard since it required only consultation.

47. It had also been said during the discussion that indigenous peoples were not "peoples", and the term "minorities" had been used. His organization wished to voice its desire to see the term "peoples" established once and for all in relation to indigenous peoples, even in the title of the competent Working Group. In that connection, it rejected the reservations expressed with regard to the term "peoples" in Convention No. 169; those reservations were among the major reasons for the rejection of the Convention by indigenous organizations and communities. In their view, the term "peoples" was unequivocal.

48. Furthermore, he was disappointed to learn that the Canadian Government had decided not to present its biannual report to the Committee on the Elimination of Racial Discrimination, the only United Nations body able to question a State on its activities to eliminate racial discrimination.

49. In conclusion, he urged the Sub-Commission to contribute to the adoption of a new approach to the legitimate aspirations of indigenous peoples to self-determination, through vigorous thinking, free of "Eurocentrism", with the objective of eliminating all forms of institutionalized racism.

50. The CHAIRMAN said that the Bureau would consider the question of participation by non-governmental organizations in the work of the Sub-Commission on the basis of the suggestion made by Mr. Treat.

51. Mrs. WARZAZI said that, while she understood and supported the view expressed by Mr. Treat, the Sub-Commission should be indulgent and, since it was not behind in its programme, allow those non-governmental organizations which wished to take the floor to do so at the present time.

52. Mr. ALFONSO MARTÍNEZ supported the position taken by Mrs. Warzazi.

53. Mr. TREAT, speaking on a point of order, said that Mr. Alfonso Martínez' comments concerning his statement had been based on an incorrect interpretation of his remarks. He had no intention of embarking on a political discussion involving their respective countries - the Sub-Commission had far too many important tasks to perform. The fact that he might not reply to some charges made against his country did not mean, however, that he accepted them.

54. Mr. ALFONSO MARTÍNEZ, speaking on a point of order, said that in referring to some remarks by an expert, he had not intended to become engaged in a discussion involving their respective States. He had merely thought it useful to express his views on the important statement by Mr. Treat, with regard to both those aspects of that statement of which he approved and those on which it seemed necessary to provide clarification.

55. Mr. SUESCUN noted that the countries in which the problem of racial discrimination was the most acute were the most developed nations. It could therefore be concluded that the culture of those countries had no merit, or at all events that it was not adequate to guarantee harmonious coexistence among their inhabitants. The rise of racism in various parts of the world which in many cases were intellectually developed showed that their values were in a state of crisis, and he would like Mr. Eide to include in the recommendation appearing in paragraph 445/5 of his report (E/CN.4/Sub.2/1989/8/Add.1) a

statement indicating the need to replace that culture of hatred, violence and discrimination by a culture which promoted harmonious coexistence and ensured equality. He also thought it necessary for an appeal to be made to universities and cultural and intellectual circles to act along those lines.

56. Mr. EIDE said he was grateful to the members of the Sub-Commission who had given the necessary attention to the issues he had taken up in his report (E/CN.4/Sub.2/1989/8 and Add.1). Disagreeing with some critical remarks addressed to him, he thought that those issues were not too numerous since it was essential to examine the action undertaken during the two Decades aimed, inter alia, at eliminating discriminatory measures against migrant workers, indigenous peoples and minorities. Nevertheless, as racism, in its traditional meaning, had been the main concern over the two Decades, it and its pseudo-scientific sources occupied a major place in his report. It should be recalled that Europe was the birthplace of that so-called scientific racism, which it had used to justify its domination over other regions of the world. The search for the causes of that phenomenon was entirely justified, since that was the only way to discredit the theories of those who advocated a new racism and used them for political purposes.

57. With regard to the problems of migrant workers, the statements by Mrs. Warzazi, Mrs. Ksentini, Mr. Diaconu and Mr. Zhan had been very enlightening. The situation of such workers had worsened since the publication of the report, and it would therefore be necessary to change the recommendation in paragraph 445/21 of document E/CN.4/Sub.2/1989/8/Add.1 in the light of that development and the results of the Athens seminar described in document E/CN.4/1990/50 in order to place greater stress on the duties of host countries.

58. The information given by Mr. Joinet on measures to punish incitement to racism in France was very interesting; it echoed the statements of several other members of the Sub-Commission calling for a strengthening of penalties for racism. Of course, the question then arose of the relative importance of freedom of speech and of punishment for incitement to racism. That point was taken up in paragraphs 429 to 431 of the report (E/CN.4/Sub.2/1989/8) and, in his opinion, punishment for incitement to racism was not incompatible with freedom of speech, which, in any event, was always limited by national legislation. Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination was entirely applicable in that regard.

59. Mr. Saboia had rightly said that the discrediting of the pseudo-scientific belief in racial superiority had been an important victory. He had also underlined the need to strike an adequate balance between non-discrimination and respect for the separate identity of each people, that word being taken in the general meaning given to it in the Convention and implying no position with regard to self-determination.

60. With respect to the co-ordination of activities in the area under consideration, he endorsed Mr. van Boven's idea of holding a one-day session with the Committee on the Elimination of Racial Discrimination each year and seeking greater financial support for it.

61. He also shared Mr. Suescún's view on the importance of the cultural aspect of the struggle against racial discrimination, and called on the Sub-Commission to support UNESCO in its action along those lines.

62. Recommendation 10 (E/CN.4/Sub.2/1989/8/Add.1, para. 445) had prompted a variety of reactions, and several representatives of indigenous organizations had shown little enthusiasm for the ILO Convention. He continued, nevertheless, to believe that an effort must be made to ensure the ratification of that instrument while urging the adoption of recommendation 11 on the association of indigenous peoples with the monitoring of the implementation of that Convention and recommendation 13 on the establishment of an appropriate monitoring procedure.

63. The Commission's attention had been drawn to the critical situation in some countries which in some respects stemmed from racial discrimination. Ethnic groups were involved in Liberia, for example, as well as in Fiji, and Cyprus and in the Soviet Union, where the consequences of Stalin's policy of displacing populations were being felt. In that connection, he recalled his recommendation 26 on transmigration inside national borders.

64. The United States' experience in the field of displaced minorities, to which Mr. Treat had referred, was also very interesting. It must be pointed out, however, that problems of two kinds had arisen in that country: on the one hand, those which had been experienced by emigrants who had come there voluntarily and which had been resolved in a relatively satisfactory and lasting manner as a result of the "melting-pot" and, on the other hand, those experienced by populations who had been there before the arrival of the Mayflower and of those who had been displaced. The important developments which had begun to take place in the United States during the 1960s should, however, bear fruit one day.

65. With regard to South Africa, the report of the Secretary-General (A/44/1990) was extremely interesting. While expressing the hope that the steps currently being taken would result in the establishment of a democratic State in that country, he considered that sanctions should not be lifted since they were probably the reason for the current improvement and since the question of the redistribution of land among all the country's inhabitants - a measure of great importance for its future - was still in the air.

66. As Mr. Khalifa had shown clearly, the world was witnessing developments of two kinds. One was positive, in that human rights and democratic pluralism were being reasserted, as in Chile or elsewhere in the third world. The other development, disquieting in nature, was linked to the phenomenon of selective memory, a subject to which he wished to revert since it was linked to racial discrimination and the destructive conflicts it caused. It was selective memory which, by reshaping the past, prevented the establishment of a constructive dialogue concerning the future. The solution might lie in sound information, and he mentioned three books which should make it possible to change some preconceived ideas: Eurocentrism by Samir Amin, an Egyptian research worker, Black Athena by Mr. Bernal, an English author, and a work by Abdallah Ahmed An Naim on the current status of human rights in Islamic countries.

67. Lastly, he considered that the conflict between Israelis and Palestinians, two Semitic peoples, would be resolved only when the rights of the Palestinians were deemed to be as important as those of the Israelis. Referring to the serious conflict taking place at the present time in the Middle East, he denounced the same demagogic racism and the same primitive

brutality as in the conflict which had convulsed the world 50 years previously; those crises could be resolved only through a constructive dialogue. A common frame of reference already existed to that end, namely the International Bill of Human Rights.

68. Mrs. WARZAZI congratulated the Governments of Canada and Quebec and the representatives of the Mohawk Indians on the agreement they had signed on 12 August 1990, which prevented the use of force.

69. The CHAIRMAN announced that the Sub-Commission had concluded the general debate on agenda item 5 (a).

PROTECTION OF MINORITIES (agenda item 18) (E/CN.4/Sub.2/1990/46; E/CN.4/1990/41; E/CN.4/Sub.2/1989/43)

70. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 18, observed that since its establishment the Sub-Commission had been entrusted with questions relating to the protection of minorities. It had first studied the specific problems of those groups, endeavoured to classify them, prepared a draft article on the rights of persons belonging to minorities for inclusion in the International Covenant on Civil and Political Rights, mandated a special rapporteur to undertake a study of the rights of persons belonging to ethnic, religious and linguistic minorities and, in 1985, considered the study by Mr. Deschênes containing a proposed definition of the term "minority". Furthermore, in 1978 the Commission had established an informal open-ended working group to draft a declaration on the rights of members of minorities, within the framework of the principles set forth in article 27 of the International Covenant on Civil and Political Rights.

71. Despite all those efforts to protect minorities, conflicts and tensions involving minorities were becoming worse and sometimes constituted a threat to the States concerned and the peace of the entire region in question.

72. As a result, increased attention was being given to minority issues, for instance at the Conference on Security and Co-operation in Europe and the Council of Europe. However, such disquieting situations were not limited to Europe, and each constituted a special case. While recognizing that it was difficult to find a uniform solution, the General Assembly had declared that the United Nations should not remain indifferent to the fate of minorities. For its part, the Sub-Commission, by resolution 1989/44, which had been endorsed by Economic and Social Council resolution 1990/39, had requested Mr. Eide to review the relevant experience of various countries in order to construct models for peaceful and constructive solutions to problems involving minorities. The Sub-Commission now had before it the report by Mr. Eide on the subject (E/CN.4/Sub.2/1990/46).

The meeting rose at 1.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 August 1990, at 4 p.m.

Chairman: Mr. TURK

later: Mrs. ATTAH

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The meeting was called to order at 4.20 p.m.

PROTECTION OF MINORITIES (agenda item 18) (continued) (E/CN.4/Sub.2/1990/46; E/CN.4/1990/41; E/CN.4/Sub.2/1989/43)

1. Mr. EIDE, introducing his progress report (E/CN.4/Sub.2/1990/46), noted that the Sub-Commission's role in respect of protection of minorities had been rather modest; that was because it was difficult to find ways of dealing with so complex a subject. Article 27 of the International Covenant on Civil and Political Rights etablished minimum rights for minorities; the question was whether it would be possible and useful to go beyond that article and, if so, how to do so. The growing importance of the problem had been illustrated by a statement made by the Romanian representative at the forty-sixth session of the Commission on Human Rights, indicating that the new democracy in Romania was based on equality in law for all citizens and stressing the need to assure the rights of people belonging to national minorities; a declaration on the rights of national minorities had been adopted, a law on minorities was being drawn up and a ministry for minorities was being set up. The Conference on Security and Co-operation in Europe was also dealing with the question of minorities.

2. He recalled the background to his report, as set forth in paragraph 5, and drew attention to the guidelines suggested in the working paper prepared by Mrs. Palley (E/CN.4/Sub.2/1989/43) and stated in paragraph 9 of his report. As indicated in paragraph 7, the emphasis of the study would not be on the rights to be adopted for minorities, but on the handling of minority situations in real life, and the experience obtained at the national level. The idea was to examine national experience in order to try to construct models or approaches for peaceful and constructive solutions of minority situations. It would therefore be necessary to consider not only rights but, more important, institutions established and procedures used to deal with minority problems, in order to explore the usefulness and the possibilities of improvement.

3. In section III of his report, he had indicated some basic issues, in particular the need to protect the fundamental freedoms and human rights of all individuals, whether members of minorities or majorities. The study would not deal with the issue of the definition of minorities. He also drew attention to paragraphs 17 to 23, in particular paragraphs 20, 21, 22 and 23, concerning the problems involved in deciding whether to go beyond article 27 of the Covenant, as well as to paragraphs 22 and 23 which referred to the question of autonomy.

4. Turning to part IV, he stressed that the main purpose of the report was to explore possible ways and means to facilitate peaceful and constructive solutions of minority situations, bearing in mind the great variations in such situations (paras. 30 and 31). Paragraph 32 referred to the problems and benefits of the coexistence of different nationalities within a sovereign State. An important question, raised in paragraph 33, on which he would welcome the views of members of the Sub-Commission, was whether a distinction should be made between "settled" minorities and "recent immigrant" minorities. The following paragraphs discussed the important problem of ethnic conflicts, which could become extremely violent, irrational, emotional and long-enduring. In that connection, he welcomed the activities of the

United Nations Research Institute on Social Development (UNRISD) and of the United Nations University; he intended to maintain close contacts with both bodies.

5. His study would seek to combine the basic approaches, indicated in paragraph 42: to promote the rights and development of minorities in a manner consistent with the unity and stability of States, their territorial integrity and political independence, in the light of the Declaration of Principles on Friendly Relations and Co-operation Among States; and to ensure that members of minorities also respected and protected all individual human rights as set out in the Universal Declaration of Human Rights, in relation both to their own members and to the members of the majority.

6. The sources of information for his study were set forth in part V. The two most important were the reports submitted by States to the Human Rights Committee and to the Committee on the Elimination of Racial Discrimination and the questionnaire in annex I based on the proposed questionnaire in the annex to document E/CN.4/Sub.2/1989/43. He looked forward to receiving comments and hoped that States, in replying to the questionnaire, would describe their difficulties. Other sources were the United Nations draft declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities (annex II) and the set of principles on national minorities drawn up by the European Commission for Democracy Through Law (annex III).

7. The CHAIRMAN recalled that item 18 was a new item and suggested that the sub-title of Mr. Eide's progress report, "Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities" might form a useful basis for the Sub-Commission's deliberations.

8. Mr. HATANO said that, as a member of the Working Group on Indigenous Populations, he had read Mr. Eide's report with particular interest, since it touched upon various problems which would have to be dealt with when drafting the universal declaration on the rights of indigenous peoples. On the whole, he was in full agreement with the contents of the report, although its status was not very clear, since it was described on the cover page as a "progress" report, in paragraph 1 as a "preliminary" report and in paragraph 3 as a "provisional" report.

9. He noted in paragraph 10 of the report that members of minorities should not be subject to discrimination by the State or "by members of the majority". As everybody was aware, the members of the Sub-Commission were supposed to be "independent" experts - presumably independent of their Governments, simply because Governments had been regarded as violators of human rights and fundamental freedoms. No one would deny that Governments violated human rights; however, they were not the only violators, although in many cases they were the major ones. It was no wonder, therefore, that United Nations human rights bodies, including the Sub-Commission, had hitherto focused attention exclusively on States or Governments. For individual victims, however, it did not matter whether their human rights were violated by Governments or by any one else, and he felt that the time had come to give some attention to human rights violations not perpetrated by Governments. Mr. Eide's words seemed to open a door - or at least a tiny window - which might lead to an entirely new world in terms of human rights and fundamental freedoms. Since that matter was clearly related to State responsibility, he would return to it under agenda item 4.

10. With regard to the question of the balance between the rights of nationals and of non-nationals, Mr. Eide envisaged the possibility of non-nationals belonging to a "settled" majority being granted suffrage, either at local or at national level. He was not opposed to the idea; indeed in Japan human rights activists were advocating the idea that Japanese nationals living abroad for long periods should have the right to vote, at least in national elections. But that could well result in non-nationals belonging to settled minorities being able to vote both in their own country and in their country of settlement. He would therefore favour non-nationals belonging to settled majorities being granted the right to vote in the country where they were residing, but only if they were not entitled to vote in their home country.

11. According to paragraph 16, the existence of a given majority depended on objective and subjective factors - for example, a child's mother tongue was not the language that the Government recognized but the one the mother spoke. He would like to know whether that example was intended to illustrate the objective or the subjective factor, or both. He also wondered what would happen if the mother spoke two or more languages. In connection with paragraph 18, he would like to know what Mr. Eide meant by the words "substantial" in the fifth line. Had he in mind a particular number or a ratio or percentage? As a proportion of the whole population there would be no problem, but a proportion of a given area or region would be very variable and the figures might be open to manipulation for election purposes. He also suggested that in the first line of article 3, paragraph 3, of the draft declaration reproduced in annex II of the report the words "persons belonging to" should be placed in square brackets.

12. Perhaps Mr. Eide would consider the points he had raised and comment on them in his interim or final report.

13. Mr. HELLER said that past experience had shown that problems involving minorities were very complex. As Mr. Eide had pointed out in paragraph 16 of his progress report, the question of whether a minority existed did not depend only on recognition by the State. The first difficulty therefore was that of definition. The report provided little guidance as to the number and types of minorities covered by the study.

14. He agreed with Mr. Eide that a major distinction must be drawn between "settled" minorities, which had lived in the country concerned for a long period of time, and "recent immigrant" minorities, including newly arrived immigrants, migrant workers, refugees and other non-nationals.

15. In his view, a distinction must also be drawn between the character and claims of different minorities in regard to equality of rights with the majority, on the one hand, and the very different type of right represented by the claim to self-determination on the other hand. In that connection, it would be important to know what were the principal components of the minorities concerned.

16. On the issue of minority claims, it would be interesting to have a more precise classification in order to identify the issues on which minorities were prepared to take a strong stand.

17. Paragraph 8 of the report referred to possible models for peaceful and constructive solutions of minority situations while chapter IV emphasized the variations in those situations. In his view, the diversity of minority situations, involving both domestic and international considerations, called for ad hoc treatment of each situation as it arose.

18. Mr. SACHAR said that the protection given to minorities in India might be of interest to Mr. Eide. Speaking strictly and bearing in mind the difficulty of defining a minority, there were no ethnic or national minorities in India. There were separate religious groups consisting of Muslims, Hindus, Christians, Parsees, Jews and others, but those were not minorities in the sense of weak and defenceless groups. The largest minority were the Muslims who had settled in India approximately 500 years ago and had become Indians.

19. The Constitution of India contained a chapter on fundamental rights. Articles 25 et seq. set out the basic rights of religious minorities, including freedom of conscience and the right to the free practice, propagation and management of religion and freedom to establish educational institutions. There had been a spate of litigation since 1950 with particular reference to the right of religious minorities to set up and control educational institutions. Minorities had argued that any attempt by the State to lay down conditions regulating, for example, the employment of teachers would constitute interference by the State with their religious rights. The Supreme Court had accepted that religious minorities had the right to set up their own educational institutions and that the State could not interfere with the governing bodies of those institutions or how the groups treated their teachers.

20. Admission to schools in India was normally based on merit; minorities had however insisted on their right to select pupils on the basis of their own principles. The Supreme Court had upheld that position. In one case the State had accepted the exceptions required by minorities but had refused funds on the grounds that the Constitution guaranteed only the right to establish institutions. Again, the Supreme Court had upheld the minority right to the provision of funds by the State.

21. In paragraph 19 of his report, Mr. Eide had argued that a meaningful application of article 27 of the International Covenant on Civil and Political Rights was the right of members of a minority to have contact across borders with the same or similar ethnic, language or religious groups. In his own view, cross-border movement was a separate issue and it was questionable whether it fell within the rights of minorities in different States. The granting to minorities of one ethnic origin living in different States of the right to cross-border movement could imply interference with the sovereignty and borders of States and could give rise to serious problems in, for example, Cyprus and potentially in the Soviet Union on the border between Azerbaijan and Iran.

22. In paragraph 21 of his report Mr. Eide had mentioned the right to be consulted, including the right to control natural resources in regions in which the minority lived. It was his view that such a claim went too far as it suggested that minorities would have a veto power which could create serious problems. The issue called for further consideration.

23. Concerning the use of the mother tongue of minorities in education, it was his view that, while the mother tongue should be used at the primary level, education at the secondary level should be in the State language. It should be possible to stipulate quantitative standards for the composition of classes.

24. Mrs. Attah took the Chair.

25. Mr. EIDE said that he would like to clarify one point in paragraph 21 of his study to which Mr. Sachar had referred. He was not arguing that all minorities should have all the rights set out in that paragraph. However, for the purposes of analysis only, it might be possible to envisage an ascending level of rights in cases where different circumstances might call for different kinds of solutions. In very special cases, control of natural resources would be appropriate but only in very special circumstances. The main purpose of paragraph 21 was simply to point out, for analytical purposes only, that, as there were so many variations in minority situations, pragmatic solutions must be found. In some cases that might involve control over land resources.

26. Mrs. KSENTINI, supported by Mr. ALFONSO MARTÍNEZ, pointed out that it was not possible for them to take the floor as the documents were not available in all working languages. The same was true of the documentation under agenda item 5 (b). Could the secretariat inform the Sub-Commission when the documentation would be available in all working languages?

27. Mr. CISSE (Secretary of the Sub-Commission) replied that, of the documents for agenda item 18, documents E/CN.4/Sub.2/1990/41 and E/CN.4/Sub.2/1989/43 were available in French. Document E/CN.4/Sub.2/1990/46 would be available in French the following morning. The situation with regard to the documents for agenda item 5 (b) was still being investigated.

28. Mr. Türk resumed the Chair.

29. Mr. YIMER said that the most difficult problem to be faced was that of the definition of a minority. Mr. Eide had treated the issue in paragraph 13 of his study in which he had illustrated the difficulties involved in definition and had pointed out that three elements were involved, namely, the numerical, the issue of non-dominance and differences from other members of society. In that connection, he would like to know whether it would be possible to proceed to a substantive discussion of possible ways and means of facilitating peaceful and constructive ways of solving problems relating to minorities without a definition.

30. Mr. EIDE replied that a definition of a minority was not indispensable. If it had been, it would not have been possible to prepare the study. His position was made clear in paragraph 5 of the questionnaire contained in annex I to his progress report. Ever since 1947 the Sub-Commission had been trying to define a minority. For the moment he would draw on material supplied by Governments to see how they had understood the term.

31. Mr. GONDOR (Observer for Hungary) said that the present discussion, Mrs Palley's working paper, Mr. Eide's progress report, the results of the work done by an open-ended working group of the Commission which had completed

the first reading of the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, and the project on ethnic conflict and development being undertaken by the United Nations Research Institute for Social Development were all indicative of a very promising trend. His delegation agreed with those who stressed the re-emergence of the minority problem, especially in Europe, and the risk of increasing inter-ethnic conflicts. There was a growing recognition that the effective and genuine protection of minorities was possible only within a democratic framework and that without the effective protection of minorities there was no genuine friendship or co-operation between States. In that area the United Nations had an awesome responsibility to shoulder.

32. Hungary considered national and ethnic minority rights to be an important element in the national and international system of human rights. Hungary's minority policy was based on the National Minorities Act of 1868 - the first of its kind in Europe. Its modern formulation was contained in the present Constitution, which declared that the Republic of Hungary ensured equal rights, the use of the mother tongue, education in the mother tongue, and the preservation and fostering of national culture for each national minority living in its territory.

33. In the current process of developing a constitutional State and a multi-party democracy in Hungary, questions having a decisive effect on the life of the national minorities had to be answered. The earlier policy had granted them equal rights but did not refer to their contribution to the powers of the State. The Constitution, as amended in 1989, stated that national and ethnic minorities living in Hungary shared in the people's power, being constituents of the State. Hungary was trying to enlarge permanently the real possibilities of exercising minority rights and of preserving national identity. It was currently important that individual and collective minority rights be incorporated in a new law on minorities which was in the course of preparation. That new legal framework should protect national linguistic minorities from trends to assimilate them.

34. While it was Hungary's duty to ensure a solid future for the different population groups within its territory and to create the necessary conditions for the exercise of their rights, his country also bore a special responsibility for the fate of those millions of Hungarians whom the upheavals of history had left outside its borders. The circumstances of national, ethnic, linguistic and religious minorities were different in different parts of the world. The action taken by different countries was influenced and determined by their own situations and internal conditions. Hungary therefore sought to elaborate, through joint efforts, a set of obligations in respect of national, ethnic, religious and linguistic minorities that could be acceptable to all - an international set of political and legal rules that would create practical possibilities for national minorities to preserve and develop their identity and to exercise their individual and collective rights, with an effective mechanism for monitoring implementation. Hungary hoped that the final text of the draft submitted by Hungary, Austria, Czechoslovakia, Italy and Yugoslavia to the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE in June 1990 would lead to a satisfactory solution and to a regular follow-up of the problem, which had great significance for the future stability of Europe. Hungarian delegations had precise instructions to do their utmost to promote the codification of internationally binding rules

for the protection of the individual and collective rights of national, ethnic, religious and linguistic minorities. His delegation was therefore particularly anxious to assist the Special Rapporteur, Mr. Eide, in his important and difficult task.

35. Mr. PATAUT (International Federation of Human Rights), after welcoming the approach adopted by Mr. Eide in his progress report (E/CN.4/Sub.2/1990/46), recalled that at the most recent session of the Commission on Human Rights the International Federation of Human Rights (IFHR) had drawn attention to the urgent need to establish a body to promote a dialogue in critical situations involving minorities. It had accordingly urged the Commission to request the Secretary-General to appoint a mediator for that kind of situation, since it was consistently aware of how much the absence of dialogue between parties was the main reason why latent situations degenerated into conflicts. That had been so, for example, in March 1990 in the conflict between the Hungarian minority and the Romanian population in Transylvania, and the disastrous situation of the gypsies in eastern Europe could easily lead to violence unless there was a prompt and effective dialogue between them and the Governments concerned. Events in Liberia also showed the need for the Sub-Commission to set up a mechanism for promoting dialogue among the parties.

36. IFHR urged the Sub-Commission to take account of the mandate and recent activities of the Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization, which had just completed a study of the possibilities of establishing a United Nations commission for providing good offices, mediation and conciliation in situations whose prolongation could lead to discord or give rise to an international dispute threatening international peace and security. As various United Nations bodies had often found, situations involving minorities represented a major threat to international peace and security. The Sub-Commission should therefore make arrangements to use the potential for dialogue represented by the Special Committee and, if established, the mediation commission.

37. Miss SEIGEL (International Council of Jewish Women) said that every society had minorities living within it and was guilty of some kind of discrimination. What differed was awareness and the will to fight against discrimination through education and the law. Recriminations should serve only to let off steam, to clear the air and to pave the way to reduce tensions and find solutions.

38. The International Council of Jewish Women (ICJW) commended Mr. Eide for his progress report and particularly agreed with his view, stated in paragraph 24, that the choice of solutions should depend on a pragmatic analysis of the real needs and not on a general formula. Paragraph 42, concerning the necessary balance between minority and majority rights and the unity and stability of States, was also important. In that connection, it should be borne in mind that although human rights were inalienable and universal, they were not absolute: there were limits where one right infringed upon another. An equilibrium must therefore be found.

39. In the ICJW's view, most of the required texts existed. None the less ICJW hoped that the Commission's Working Group on the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic

minorities would finally complete its work on the second reading at the Commisson's forty-seventh session in 1991. The ICJW also wished to draw attention to the document adopted by the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE in June 1990, which stressed education as well as law as instruments for protecting minority rights.

40. Minority problems could be solved peacefully if all persons in the world, looking into their own traditions, lived by those that called for respect for others and recognition of their difference. In the traditions with which she was familiar, each had one stream that was open to the world and another that was closed. That was probably a common characteristic of traditions. It was therefore up to everyone to find and support the open stream. Moreover, if the family was the nucleus of society, there could be no discrimination against women.

41. Mr. Eide had asked for thoughts on the difference between "settled" minorities and "recent immigrants". Her organization would say that there was little or no difference in their rights but only in the mechanisms used to receive them. "Recent immigrants" needed public and/or private agencies to help them to settle in and to inform them of their rights and obligations. An article published in Le Monde on 7 August 1990 showed what happened when new immigrants arrived in desperation with no idea about how the receiving society worked. They were convinced that their fantasies were the reality and even seemed unwilling to learn about the new society. That was probably an extreme case, but once again a balance had to be found between otherness and integration. At the next session more time should be allotted to the item. Because of the prevalence of minorities and of the changes occurring in Europe, the world seemed to be tending to pluralism and democracy in many forms. The idea of national sovereignty was also changing, especially in regard to human rights and development. Not only criticism but also action against countries violating human rights were an integral part of the human rights machinery in the United Nations. The demands made by international and national institutions on borrowing States for the use of development funds was another limitation on national sovereignty. The ICJW looked forward to further reflection on those matters.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1990/50)

42. Mrs. FIRDAUS (Observer for Bangladesh) speaking in exercise of the right of reply, recalled that, in the discussion of agenda item 5 (a), the representative of Pax Christi International, in making allegations of population transfer policies, had named Bangladesh among others. That allegation was not only baseless but it also ignored the Sub-Commission's decision of 31 August 1989 thanking the Government of Bangladesh and expressing its satisfaction in respect of the treatment of its tribal populations. Some members of the Sub-Commission had considered the present legislative and administrative measures introduced by her Government for the welfare of the tribal people to be a "model" for other countries. Therefore, when the tribal people of the Chittagong Hill Tracts were enjoying self-government with wide powers, such an unfortunate reference, amounting to

an allegation, neither lent any credit to the non-governmental organization concerned nor helped the work of the Sub-Commission. She hoped that members of the Sub-Commission would not be misled in any way on that issue.

43. Mr. PHARAON (Observer for the Syrian Arab Republic), referring to a statement made by the representative of the World Union for Progressive Judaism at the previous meeting, said that his country had supported the General Assembly resolution assimilating zionism to racism and was aware of the great difference between Judaism and zionism. Judaism was a religion which had been respected in Arab countries for hundreds of years. Jews had not been persecuted because they were Jews in Arab countries, as had happened in Europe. Zionism, on the other hand, was a racist movement similar to what was found in South Africa. Zionism exploited Judaism to promote its expansionist policies, but many followers of Judaism condemned zionism because they considered it contrary to their religion.

44. He wished to thank Mr. Alfonso Martinez for the example he had given of racist practices pursued in the Israeli-occupied territories, and Mr. Eide for his concluding remarks on racism.

The meeting rose at 6 p.m.